

**TAX REFORM CODE OF 1971 - OMNIBUS AMENDMENTS**

**Act of Oct. 30, 2017, P.L. 672, No. 43**

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No. 2017-43

HB 542

AN ACT

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties,"

in sales and use tax, further providing for definitions, for imposition of tax and for exclusions from tax, providing for marketplace providers and marketplace sellers and further providing for remote sales reports;

in personal income tax, providing for the Pennsylvania ABLE Savings Program Tax Exemption, repealing provisions relating to contribution for Korea/Vietnam Memorial National Education Center, further providing for operational provisions, providing for definitions, further providing for requirement of withholding tax, providing for withholding tax requirement for non-employer payors, further providing for information statement, providing for information statement for non-employer payors and for information statement for payees, further providing for time for filing withholding returns, providing for time for filing payors' returns, further providing for payment of taxes withheld, providing for payment of taxes withheld for non-employer payors, further providing for liability for withheld taxes, providing for payor's liability for withheld taxes and for payor's failure to withhold, further providing for amount of withholding tax and for treatment of nonresident partners, members or shareholders, providing for withholding on income and for annual withholding statement and further providing for requirements concerning returns, notices, records and statements and for additions, penalties and fees;

in corporate net income tax, further providing for definitions and providing for qualified manufacturing innovation and reinvestment deduction;

in realty transfer tax, further providing for definitions and for exempt parties;

providing for tax credit eligibility;

in entertainment production tax credit, further providing for definitions and for credit for qualified film production expenses, providing for film production tax credit districts and establishing the Entertainment Economic Enhancement Program;

in city revitalization and improvement zones, further providing for certification, for restrictions and for transfer of property;

in neighborhood improvement zones, providing for transfer of property;

in keystone opportunity zones, keystone opportunity expansion zones and keystone opportunity improvement zones, further providing for additional keystone opportunity zones; in inheritance tax, further providing for timely mailing treated as timely filing and payment; in Public Transportation Assistance Fund, further providing for fund; providing for fireworks; in procedure and administration, further providing for petition for reassessment and for review by board; providing for tobacco master settlement payment revenue bonds and sale of revenue; making related repeals; and making editorial changes.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 201(m) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended July 13, 2016 (P.L.526, No.84), is amended to read:

Section 201. Definitions.--The following words, terms and phrases when used in this Article II shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

(m) "Tangible personal property."

(1) Corporeal personal property including, but not limited to, goods, wares, merchandise, steam and natural and manufactured and bottled gas for non-residential use, electricity for non-residential use, prepaid telecommunications, premium cable or premium video programming service, spirituous or vinous liquor and malt or brewed beverages and soft drinks, interstate telecommunications service originating or terminating in the Commonwealth and charged to a service address in this Commonwealth, intrastate telecommunications service with the exception of (i) subscriber line charges and basic local telephone service for residential use and (ii) charges for telephone calls paid for by inserting money into a telephone accepting direct deposits of money to operate, provided further, the service address of any intrastate telecommunications service is deemed to be within this Commonwealth or within a political subdivision, regardless of how or where billed or paid. In the case of any such interstate or intrastate telecommunications service, any charge paid through a credit or payment mechanism which does not relate to a service address, such as a bank, travel, credit or debit card, but not including prepaid telecommunications, is deemed attributable to the address of origination of the telecommunications service.

(2) The term shall include the following, whether electronically or digitally delivered, streamed or accessed and whether purchased singly, by subscription or in any other manner, including maintenance[, ] **and** updates [and support]:

- (i) video;
- (ii) photographs;
- (iii) books;
- (iv) any other otherwise taxable printed matter;
- (v) applications, commonly known as apps;
- (vi) games;
- (vii) music;
- (viii) any other audio, including satellite radio service;

(ix) canned software, notwithstanding the function performed, **including support, except separately invoiced help desk or call center support;** or

(x) any other otherwise taxable tangible personal property electronically or digitally delivered, streamed or accessed.

\* \* \*

Section 2. Section 202(a) of the act is amended to read:

Section 202. Imposition of Tax.--(a) There is hereby imposed upon each separate sale at retail of tangible personal property or services, as defined herein, within this Commonwealth a tax of six per cent of the purchase price, which tax shall be collected by the vendor **or any other person required by this article** from the purchaser, and shall be paid over to the Commonwealth as herein provided.

\* \* \*

Section 3. Section 204(13) of the act, amended July 13, 2016 (P.L.526, No.84), is amended to read:

Section 204. Exclusions from Tax.--The tax imposed by section 202 shall not be imposed upon any of the following:

\* \* \*

(13) The sale at retail, or use of wrapping paper, wrapping twine, bags, cartons, tape, rope, labels, nonreturnable containers [and], all other wrapping supplies **and kegs used to contain malt or brewed beverages**, when such use is incidental to the delivery of any personal property, except that any charge for wrapping or packaging shall be subject to tax at the rate imposed by section 202, unless the property wrapped or packaged will be resold by the purchaser of the wrapping or packaging service. As used in this paragraph, the term "cartons" includes corrugated boxes used by a person engaged in the manufacture of snack food products to deliver the manufactured product, whether or not the boxes are returnable for potential reuse.

\* \* \*

Section 4. Article II of the act is amended by adding a part to read:

#### PART V-A MARKETPLACE SALES

Section 213. Definitions.--For the purposes of this part V-A only, the following words, terms and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Affiliated person." A person that, with respect to another person:

(1) has a direct or indirect ownership interest of more than five percent in the other person; or

(2) is related to the other person because a third person, or group of third persons who are affiliated with each other as defined in this subsection, holds a direct or indirect ownership interest of more than five percent in the related person.

(b) "Forum." A place where sales at retail occur, whether physical or electronic. The term includes a store, a booth, a publicly accessible Internet website, a catalog or similar place.

(c) "Marketplace facilitator." A person that facilitates the sale at retail of tangible personal property. For purposes of this section, a person facilitates a sale at retail if the person or an affiliated person:

(1) lists or advertises tangible personal property for sale at retail in any forum; and

(2) either directly or indirectly through agreements or arrangements with third parties, collects the payment from the

purchaser and transmits the payment to the person selling the property.

The term includes a person that may also be a vendor.

(d) "Marketplace seller." A person that has an agreement with a marketplace facilitator pursuant to which the marketplace facilitator facilitates sales for the person.

(e) "Notice and reporting requirements." The notice requirements under section 213.2 and the reporting requirements under sections 213.3 and 213.4.

(f) "Referral." The transfer by a referrer of a potential purchaser to a person that advertises or lists products for sale on the referrer's platform.

(g) "Referrer." A person, other than a person engaging in the business of printing or publishing a newspaper, that, pursuant to an agreement or arrangement with a marketplace seller or remote seller, does the following:

(1) Agrees to list or advertise for sale at retail one or more products of the marketplace seller or remote seller in a physical or electronic medium.

(2) Receives consideration from the marketplace seller or remote seller from the sale offered in the listing or advertisement.

(3) Transfers by telecommunications, Internet link or other means, a purchaser to a marketplace seller, remote seller or affiliated person to complete a sale.

(4) Does not collect a receipt from the purchaser for the sale.

The term does not include a person that:

(1) provides Internet advertising services; and

(2) does not provide the marketplace seller's or remote seller's shipping terms or advertise whether a marketplace seller or remote seller collects a sales or use tax.

The term includes a person that may also be a vendor.

(h) "Remote seller." A person, other than a marketplace facilitator, a marketplace seller or a referrer, that does not maintain a place of business in this Commonwealth that, through a forum, sells tangible personal property at retail, the sale or use of which is subject to the tax imposed by this article. The term does not include an employe who in the ordinary scope of employment renders services to his employer in exchange for wages and salaries.

Section 213.1. Election.--(a) Subject to the provisions of subsections (c) and (d), on or before March 1, 2018, and on or before June 1 of each calendar year thereafter, beginning June 1, 2019, a remote seller, a marketplace facilitator or a referrer that had aggregate sales at retail of tangible personal property subject to tax under this article within this Commonwealth or delivered to locations within this Commonwealth worth at least ten thousand dollars (\$10,000) during the immediately preceding twelve-calendar-month period shall file an election with the department to collect and remit the tax imposed under section 202 or to comply with the notice and reporting requirements. The election shall be made on a form and in a manner prescribed by the department and, except as provided in subsection (e), shall apply to the next succeeding fiscal year.

(b) A remote seller, a marketplace facilitator or a referrer that makes an election under subsection (a) to collect and remit the tax imposed under section 202 shall obtain a license under Part IV of this article.

(c) The requirement by a marketplace facilitator to make an election under subsection (a) shall only apply to the following:

(1) sales at retail through the marketplace facilitator's forum made by or on behalf of a marketplace seller that does not maintain a place of business in this Commonwealth; and

(2) sales at retail made by a marketplace facilitator on its own behalf if the marketplace facilitator does not maintain a place of business in this Commonwealth.

(d) The requirement by a referrer to make an election under subsection (a) shall only apply to sales at retail:

(1) directly resulting from a referral of a purchaser to a marketplace seller that does not maintain a place of business in this Commonwealth;

(2) directly resulting from a referral of a purchaser to a remote seller; and

(3) of the referrer's own products if the referrer does not maintain a place of business in this Commonwealth.

A referrer may make an election under subsection (a) for the sales described in paragraphs (1) and (2) that is different from the election made for the sales described in paragraph (3).

(e) An election made on or before March 1, 2018, shall be in effect for the balance of the 2017-2018 fiscal year and for the 2018-2019 fiscal year. A remote seller, a marketplace facilitator or a referrer may change an election to comply with the notice and reporting requirements to an election to collect and remit the tax imposed under section 202 at any time during a fiscal year by filing a new election with the department and obtaining a license under Part IV of this article. The new election shall be effective thirty days after the filing and shall be effective for the balance of the fiscal year in which the new election was filed and for the next succeeding fiscal year.

(f) A remote seller, a marketplace facilitator or a referrer who does not submit an election under subsection (a) or a new election under subsection (e) shall be deemed to have elected to comply with the notice and reporting requirements.

(g) In addition to records that may be required to be maintained under other applicable provisions of this article by a remote seller, a marketplace facilitator or a referrer, a remote seller, a marketplace facilitator or a referrer subject to this part shall also be subject to section 271 relating to the keeping of records and section 272 relating to the examination of records by the department and agents and employees of the department.

Section 213.2. Notice Requirements.--(a) A remote seller, a marketplace facilitator or a referrer required to make an election under section 213.1(a) that does not elect to collect and remit the tax imposed by section 202 shall comply with the applicable notice requirements of this section.

(b) A remote seller or marketplace facilitator subject to the requirements of this section shall:

(1) Post a conspicuous notice on its forum that informs purchasers intending to purchase tangible personal property for delivery to a location within this Commonwealth that includes all of the following:

(i) sales or use tax may be due in connection with the purchase and delivery of the tangible personal property;

(ii) the Commonwealth requires the purchaser to file a return if use tax is due in connection with the purchase and delivery; and

(iii) the notice is required by this section.

(2) Provide a written notice to each purchaser at the time of each sale at retail that includes all of the following:

(i) a statement that sales tax is not being collected in connection with the purchase;

(ii) a statement that the purchaser may be required to remit use tax directly to the department; and

(iii) instructions for obtaining additional information from the department regarding whether and how to remit use tax to the department.

(c) The notice required by subsection (b) (2) must be prominently displayed on all invoices and order forms and on each sales receipt or similar document, whether in paper or electronic form, provided to the purchaser. No statement that sales or use tax is not imposed on a transaction may be made by a remote seller or marketplace facilitator unless the transaction is exempt from sales and use tax pursuant to this article or other applicable Commonwealth law.

(d) A referrer subject to the requirements of this section shall post a conspicuous notice on its platform that informs purchasers intending to purchase tangible personal property for delivery to a location within this Commonwealth that includes all of the following:

(1) Sales or use tax may be due in connection with the purchase and delivery.

(2) The person to which the purchaser is being referred may or may not collect and remit sales tax to the department in connection with the transaction.

(3) The Commonwealth requires the purchaser to file a return if use tax is due in connection with the purchase and delivery and not collected by the person.

(4) The notice is required by this section.

(5) Instructions for obtaining additional information from the department regarding whether and how to remit sales or use tax to the department.

(6) If the person to whom the purchaser is being referred does not collect sales tax on a subsequent purchase by the purchaser, the person may be required to provide information to the purchaser and the department about the purchaser's potential sales or use tax liability.

(e) The notice required under subsection (d) must be prominently displayed and may include pop-up boxes or notification by other means that appears when the referrer transfers a purchaser to another person to complete the sale.

Section 213.3. Reports to Purchasers and Marketplace Sellers.--(a) A remote seller or marketplace facilitator required to make an election under section 213.1(a) that does not elect to collect and remit the tax imposed by section 202 shall, no later than January 31 of each year, provide a written report to each purchaser required to receive the notice under section 213.2(b) (2) during the immediately preceding calendar year that includes all of the following:

(1) A statement that the remote seller or marketplace facilitator did not collect sales tax in connection with the purchaser's transactions with the remote seller or marketplace facilitator and that the purchaser may be required to remit use tax to the department.

(2) A list, by date, indicating the type and purchase price of each product purchased or leased by the purchaser from the remote seller or marketplace facilitator and delivered to a location within this Commonwealth.

(3) Instructions for obtaining additional information from the department regarding whether and how to remit use tax to the department.

(4) A statement that the remote seller or marketplace facilitator is required to submit a report to the department under section 213.4 that includes the name of the purchaser and the aggregate dollar amount of the purchaser's purchases from the remote seller or marketplace facilitator.

(5) Such additional information as the department may reasonably require.

(b) The department shall prescribe the form of the report required under subsection (a) and shall make the form available on its publicly accessible Internet website.

(c) The report required under subsection (a) shall be mailed by first class mail in an envelope prominently marked with words indicating that important tax information is enclosed to the purchaser's billing addresses, if known, or, if unknown, to the purchaser's shipping address. If the purchaser's billing and shipping addresses are unknown, the report shall be sent electronically to the purchaser's last known e-mail address with a subject heading indicating that important tax information is being provided.

(d) A referrer required to make an election under section 213.1(a) that does not elect to collect and remit the tax imposed by section 202 shall, no later than January 31 of each year, provide a written notice to each remote seller to whom the referrer transferred a potential purchaser located in this Commonwealth during the immediately preceding calendar year that includes all of the following:

(1) A statement that a sales or use tax may be imposed by the Commonwealth on the transaction.

(2) A statement that the remote seller may be required to make the election required by section 213.1(a).

(3) Instructions for obtaining additional information regarding sales and use tax from the department.

Section 213.4. Reports to Department.--(a) A remote seller or marketplace facilitator required to make an election under section 213.1(a) that does not elect to collect and remit the tax imposed by section 202 shall, no later than January 31 of each year, submit a report to the department. The report shall include, with respect to each purchaser required to receive the notice under section 213.2(b)(2) during the immediately preceding calendar year, the following:

(1) The purchaser's name.

(2) The purchaser's billing address and, if different, the purchaser's last known mailing address.

(3) The address within this Commonwealth to which products were delivered to the purchaser.

(4) The aggregate dollar amount of the purchaser's purchases from the remote seller or marketplace facilitator.

(5) The name and address of the remote seller, marketplace facilitator or marketplace seller that made the sales to the purchaser.

(b) A referrer required to make an election under section 213.1(a) that does not elect to collect and remit the tax imposed by section 202 shall, no later than January 31 of each year, submit a report to the department. The report shall include a list of persons who received the notice required under section 213.3(d).

(c) The department shall prescribe the forms of the reports required under this section and shall make them available on its publicly accessible Internet website. The reports shall be

submitted electronically in such manner as the department shall require.

(d) A report required under this section shall be submitted by an officer of the remote seller, the marketplace facilitator or the referrer and shall include a statement, made under penalty of perjury, by the officer that the remote seller, the marketplace facilitator or the referrer made reasonable efforts to comply with the notice and reporting requirements of this part.

Section 213.5. Liability and Penalties.--(a) The department shall assess a penalty in the amount of twenty thousand dollars (\$20,000) or twenty per cent of total sales in Pennsylvania during the previous twelve months, whichever is less, against a remote seller, a marketplace facilitator or a referrer that makes an election under section 213.1(a) to comply with the notice and reporting requirements, or is deemed to have made such election under section 213.1(f), and fails to comply with the requirements under section 213.3 or 213.4. The penalty shall be assessed separately for each violation but may only be assessed once in a calendar year.

(b) A remote seller, a marketplace facilitator or a referrer that makes an election under section 213.1(a) to collect and remit the tax imposed under section 202 shall be subject to all of the provisions of this article with respect to the collection and remittance of such tax and shall be subject to all of the penalties, interest and additions for failing to comply with the provisions of this article except as provided in this section.

(c) For a period of five years after the effective date of this section, the department may abate or reduce any penalty or addition imposed under subsection (b) due to hardship or for good cause shown.

(d) A marketplace facilitator or a referrer is relieved of liability under subsection (b) if the marketplace facilitator or the referrer can show to the satisfaction of the department that the failure to collect the correct amount of tax was due to incorrect information given to the marketplace facilitator or the referrer by a marketplace seller or remote seller.

(e) A class action may not be brought against a marketplace facilitator or a referrer on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected by the marketplace facilitator or the referrer, regardless of whether such action is characterized as a tax refund claim. Nothing in this subsection shall affect a purchaser's right to seek a refund from the department under other provisions of this article.

Section 213.6. Application.--Nothing in this section affects the obligations of a vendor to register with the department and to collect and remit sales tax or use tax.

Section 5. Section 278 of the act is amended by adding subsections to read:

Section 278. Remote Sales Reports.--\* \* \*

(c) If Federal legislation relating to remote sellers has not been enacted by December 31, 2018, the Independent Fiscal Office, in conjunction with the department, shall conduct a study assessing the legal implications and fiscal impact of mandating notice requirements for remote sellers. By April 1, 2019, results of the study, if a study is produced, shall be provided to the chairman and minority chairman of the Appropriations Committee of the Senate, the chairman and minority chairman of the Finance Committee of the Senate, the chairman and minority chairman of the Appropriations Committee

of the House of Representatives and the chairman and minority chairman of the Finance Committee of the House of Representatives.

(d) As used in this section, the term "remote seller" shall have the same meaning as defined in section 213.

Section 6. (Reserved).

Section 7. The act is amended by adding a section to read:

**Section 304.2. Pennsylvania ABLE Savings Program Tax Exemption.--**(a) The following shall be exempt from all taxation by the Commonwealth and its political subdivisions:

(1) Undistributed earnings on an account.

(2) An amount distributed from an account that is not included in gross income under section 529A(c)(1) of the Internal Revenue Code.

(b) The following shall apply:

(1) An amount contributed to an account shall be deductible from the taxable income of the contributor under this article for the tax year the contribution was made.

(2) The total contributions made by a contributor during a taxable year to all accounts that are allowable as a deduction under this section shall not exceed the dollar amount under section 2503(b) of the Internal Revenue Code.

(3) The deduction shall not result in the contributor's taxable income being less than zero.

(4) The department and the Treasury Department shall cooperate in verifying account information relating to contributions to an account itemized by a contributor and the contributor's specific contributions.

(c) An amount that is distributed from an account and not otherwise exempt from taxation under this section shall be taxable income to the designated beneficiary under this article.

(d) A change in designated beneficiaries under section 529A(c) of the Internal Revenue Code shall not constitute a taxable event.

(e) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Account." An ABLE savings account as defined in section 102 of the Pennsylvania ABLE Act.

"Contributor." An individual who makes a contribution to an account as defined in section 102 of the Pennsylvania ABLE Act.

"Designated beneficiary." The term shall have the same meaning as provided in section 102 of the Pennsylvania ABLE Act.

"Internal Revenue Code." The Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as amended.

"Pennsylvania ABLE Act." The act of April 18, 2016 (P.L.128, No.17), known as the Pennsylvania ABLE Act.

"Pennsylvania ABLE Savings Program." The program established under the Pennsylvania ABLE Act.

"Qualified disability expense." The term shall have the same meaning as provided in section 102 of the Pennsylvania ABLE Act.

Section 8. Section 312 of the act, amended July 13, 2016 (P.L.526, No.84), is amended to read:

Section 312. Tax Withheld.--The amount withheld under section [316] **316.1** shall be allowed to the taxpayer from whose income the tax was withheld as a credit against the tax imposed on him by this article.

Section 9. Section 315.6 of the act is repealed:

[Section 315.6. Contribution for Korea/Vietnam Memorial National Education Center.--(a) For tax years 1997, 1998, 1999, 2000, 2001, 2002, 2003 and 2004, the department shall provide a space on the face of the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution of any amount from the individual's tax refund to the Korea/Vietnam Memorial National Education Center.

(b) The amount designated by an individual on the Pennsylvania individual income tax return form shall be deducted from the tax refund to which the individual is entitled and shall not constitute a charge against the income tax revenues due the Commonwealth.

(c) The department shall determine annually the total amount designated by individual taxpayers under this section and shall report the amount to the State Treasurer, who shall prepare the appropriate documentation and transfer the designated amount from the General Fund to the Korea/Vietnam Memorial National Education Center.

(d) The department shall provide adequate information regarding the center and its purposes in its instructions for tax years 1997, 1998, 1999, 2000, 2001, 2002, 2003 and 2004 which accompany Pennsylvania individual income tax return forms to include the address of the Korea/Vietnam Memorial National Education Center to which contributions may be sent by taxpayers who wish to make additional contributions to the center.

(e) On or before March 31 of each year, the Korea/Vietnam Memorial National Education Center shall submit a report detailing contributions received and activities undertaken during the prior calendar year to the Military and Veterans' Affairs Committee of the Senate and the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives.

(f) This section shall expire December 31, 2005.]

Section 10. Section 315.9(b.1) and (c) of the act are amended to read:

Section 315.9. Operational Provisions.--

\* \* \*

(b.1) Notwithstanding subsection (b), the checkoffs established in sections 315.2 [and], **315.3, 315.4, 315.7, 315.8, 315.10 and 315.11** shall not expire.

[(c) Sections 315.3, 315.4 and 315.8 shall expire January 1, 2018.]

Section 11. The act is amended by adding a section to read:

**Section 316. Definitions.--The following words, terms and phrases, when used in this part, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:**

**"Payee."** The person receiving the payments subject to withholding under this part.

**"Payments."** The term does not include a partner or shareholder's distributive share of income from a partnership or Pennsylvania S corporation.

**"Payor."** The person required to withhold under this part.

Section 12. Section 316 of the act, amended July 13, 2016 (P.L.526, No.84), is renumbered to read:

Section [316] **316.1.** Requirement of Withholding Tax.--(a) Every employer maintaining an office or transacting business within this Commonwealth and making payment of compensation (i) to a resident individual, or (ii) to a nonresident individual taxpayer performing services on behalf of such employer within this Commonwealth, shall deduct and withhold from such compensation for each payroll period a tax computed in such

manner as to result, so far as practicable, in withholding from the employe's compensation during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due for such year with respect to such compensation. The method of determining the amount to be withheld shall be prescribed by regulations of the department.

(b) Whenever the Pennsylvania State Lottery or a person making a Pennsylvania State Lottery prize payment in the form of an annuity is required to withhold Federal income tax under section 3402 of the Internal Revenue Code of 1986, as amended (Public Law 99-514, 26 U.S.C. § 1 et seq.), or backup withholding under section 3406 of the Internal Revenue Code of 1986, as amended, from a gambling or lottery prize payment awarded by the Pennsylvania State Lottery that is taxable under this article, the Pennsylvania State Lottery or the person making the annuity payment shall deduct and withhold from the prize payment an amount equal to the amount of the prize payment subject to withholding under section 3402 or 3406 of the Internal Revenue Code of 1986 multiplied by the tax rate in effect under this article at the time the prize payment is made.

Section 13. The act is amended by adding a section to read:

**Section 316.2. Withholding Tax Requirement for Nonemployer Payors.--(a) To the extent not already required to withhold tax on payments under section 316.1, a person that:**

(1) makes payments of income from sources within this Commonwealth described in section 303(a)(1) or (2) to either a nonresident individual or an entity that is disregarded under section 307.21 that has a nonresident member; and

(2) is required under section 335(f)(1) to file a copy of form 1099-MISC with the department regarding the payments; shall deduct and withhold from the payments an amount equal to the net amount of the payments multiplied by the tax rate specified under section 302(b).

(b) Withholding of tax by payors is optional and at the discretion of the payor with respect to payees who receive payments of less than \$5,000 annually from the payor.

(c) This section shall not apply to payments made by a payor to a payee if the payor is:

(1) The United States or an agency or instrumentality thereof; or

(2) The Commonwealth or an agency, instrumentality or political subdivision thereof.

(d) The department may prescribe regulations to implement and clarify the withholding requirement set forth in this section.

Section 14. Section 317 of the act, amended July 13, 2016 (P.L.526, No.84), is amended to read:

Section 317. Information Statement.--(a) Every employer required to deduct and withhold tax under [this article] **section 316.1(a)** shall furnish to each such employe to whom the employer has paid compensation during the calendar year a written statement in such manner and in such form as may be prescribed by the department showing the amount of compensation paid by the employer to the employe, the amount deducted and withheld as tax, pursuant to [this article] **section 316.1(a)**, and such other information as the department shall prescribe. Each statement required by this section for a calendar year shall be furnished to the employe on or before January 31 of the year succeeding such calendar year. If the employe's employment is terminated before the close of such calendar year, the employer, at his option, shall furnish the statement to the employe at any time after the termination but no later than January 31 of

the year succeeding such calendar year. However, if an employe whose employment is terminated before the close of such calendar year requests the employer in writing to furnish him the statement at an earlier time, and, if there is no reasonable expectation on the part of both employer and employe of further employment during the calendar year, then the employer shall furnish the statement to the employe on or before the later of the 30th day after the day of the request or the 30th day after the day on which the last payment of wages is made.

(b) Every person required to deduct and withhold tax under section [316(b)] **316.1(b)** shall report the prize and the amount of withholding to the taxpayer on Internal Revenue Service Form W-2G, or similar form used for reporting Federal income tax withholding from the prize.

Section 15. The act is amended by adding sections to read:

**Section 317.1. Information Statement for Nonemployer Payors.--**Every payor required to deduct and withhold tax under section 316.2 shall furnish to a payee to whom the payor has paid income from sources within this Commonwealth during the calendar year a copy of form 1099-MISC required under section 335(f)(1). The copy of form 1099-MISC required by this section for each calendar year shall be forwarded to the payee on or before March 1 of the year succeeding the calendar year.

**Section 317.2. Information Statement for Payees.--**Every payee receiving a copy of form 1099-MISC from a payor under section 317.1 shall file a duplicate of such information return with the payee's State income tax return.

Section 16. Section 318 of the act, amended July 13, 2016 (P.L.526, No.84), is amended to read:

Section 318. Time for Filing Withholding Returns.--(a) Every employer required to deduct and withhold tax under [this article] **section 316.1(a)** shall file a quarterly withholding return on or before the last day of April, July, October and January for the three months ending the last day of March, June, September and December. Such quarterly returns shall be filed with the department at its main office or at any branch office which it may designate for filing returns.

(b) Every person required to deduct and withhold tax under section [316(b)] **316.1(b)** shall file a withholding tax return at the same time the person is required to file its annual return of withheld Federal income tax (IRS Form 945) from nonpayroll payments. The return shall be filed with the department.

Section 17. The act is amended by adding a section to read:

**Section 318.1. Time for Filing Payors' Returns.--**Every payor required to deduct and withhold tax under section 316.2 shall file a quarterly withholding return on or before the last day of April, July, October and January for each three-month period ending the last day of March, June, September and December. The quarterly returns shall be filed with the department in the manner prescribed by regulation.

Section 18. Section 319 of the act, amended July 13, 2016 (P.L.526, No.84), is amended to read:

Section 319. Payment of Taxes Withheld.--(a) Every employer withholding tax under [this article] **section 316.1(a)** shall pay over to the department or to a depository designated by it the tax required to be deducted and withheld under [this article] **section 316.1(a)**.

(1) Where the aggregate amount required to be deducted and withheld by any employer for a calendar year can reasonably be expected to be less than twelve hundred dollars (\$1,200), such

employer shall file a return and pay the tax on or before the last day for filing a quarterly return under section 318.

(2) Where the aggregated amount required to be deducted and withheld by any employer for a calendar year can reasonably be expected to be twelve hundred dollars (\$1,200) or more but less than four thousand dollars (\$4,000), such employer shall pay the tax monthly, on or before the fifteenth day of the month succeeding the months of January to November, inclusive, and on or before the last day of January following the month of December.

(3) Where the aggregated amount required to be deducted and withheld by any employer for a calendar year can reasonably be expected to be four thousand dollars (\$4,000) or more but less than twenty thousand dollars (\$20,000), such employer shall pay the tax semi-monthly, within three banking days after the close of the semi-monthly period.

(4) Where the aggregated amount required to be deducted and withheld by any employer for a calendar year can reasonably be expected to be twenty thousand dollars (\$20,000) or more, such employer shall pay the tax on the Wednesday after payday if the payday falls on a Wednesday, Thursday or Friday and on the Friday after payday if the payday falls on a Saturday, Sunday, Monday or Tuesday.

Notwithstanding anything in this subsection to the contrary, whenever any employer fails to deduct or truthfully account for or pay over the tax withheld or file returns as prescribed by this article, the department may serve a notice on such employer requiring him to withhold taxes which are required to be deducted under [this article] **section 316.1(a)** and deposit such taxes in a bank approved by the department in a separate account in trust for and payable to the department, and to keep the amount of such tax in such account until payment over to the department. Such notice shall remain in effect until a notice of cancellation is served on the employer by the department.

(b) Every person deducting and withholding tax under section [316(b)] **316.1(b)** shall remit the tax to the department on the same frequency that the person is required to remit Federal income tax withheld from nonpayroll payments.

Section 19. The act is amended by adding a section to read:

**Section 319.1. Payment of Taxes Withheld for Nonemployer Payors.--Every payor withholding tax under section 316.2 shall pay over to the department or to a depository designated by the department the tax required to be deducted and withheld under section 316.2. The time for paying over the withheld tax shall be as set forth in section 319(1), (2), (3) and (4).**

Section 20. Section 320 of the act, amended July 13, 2016 (P.L.526, No.84), is amended to read:

Section 320. Liability for Withheld Taxes.--Every person required to deduct and withhold tax under [this part] **section 316.1** is hereby made liable for such tax. For purposes of assessment and collection, any amount required to be withheld and paid over to the department and any additions to tax penalties and interest with respect thereto, shall be considered the tax of the person. All taxes deducted and withheld pursuant to [this part] **section 316.1** or under color of [this part] **section 316.1** shall constitute a trust fund for the Commonwealth and shall be enforceable against such person, his representative or any other person receiving any part of such fund.

Section 21. The act is amended by adding sections to read:

**Section 320.1. Payor's Liability for Withheld Taxes.--Every payor required to deduct and withhold tax under section 316.2 is hereby made liable for such tax. For purposes of assessment**

and collection, any amount required to be withheld and paid over to the department and any additions to tax, penalties and interest with respect thereto shall be considered the tax of the payor. All taxes deducted and withheld from payees pursuant to section 316.2 or under color of section 316.2 shall constitute a trust fund for the Commonwealth and shall be enforceable against such payor, his representative or any other person receiving any part of such fund.

Section 321.2. Payor's Failure to Withhold.--If a payor fails to deduct and withhold tax as prescribed under section 316.2 and thereafter the tax which may be credited is paid, the tax which was required to be deducted and withheld shall not be collected from the payor, but the payor shall not be relieved of the liability for any penalty, interest or additions to the tax imposed with respect to such failure to deduct and withhold.

Section 22. The heading of Part VII-A of Article III of the act is amended to read:

PART VII-A  
WITHHOLDING TAX ON [SHARES ON] INCOME FROM SOURCES  
WITHIN THIS COMMONWEALTH

Section 23. Section 324.1 of the act is amended by adding a subsection to read:

Section 324.1. Amount of Withholding Tax.--\* \* \*

(c) There shall not be taken into account any share of income of nonresident partner, member or shareholder from sources within this Commonwealth to the extent that the amount was subject to withholding under section 324.4 and to the extent withholding actually occurred under section 324.4 by the time withholding is required to be made by the partnership, association or Pennsylvania S corporation under section 324.

Section 24. Section 324.2 of the act is amended to read:

Section 324.2. Treatment of Nonresident Partners, Members or Shareholders.--(a) Each nonresident partner, member, shareholder or holder of a beneficial interest shall be allowed a credit for such partner's, member's, shareholder's or holder of a beneficial interest's share of the withholding tax paid by the partnership, association or Pennsylvania S corporation. Such credit shall be allowed for the partner's, member's, shareholder's or holder of a beneficial interest's taxable year in which, or with which, the partnership, association or Pennsylvania S corporation taxable year (for which such tax was paid) ends.

(b) Each nonresident lessor shall be allowed a credit for the nonresident lessor's share of the withholding tax paid by the lessee under section 324.4.

(c) The credits under this section shall be allowed for the nonresident lessor's taxable year in which the lessee withheld tax.

Section 25. The act is amended by adding sections to read:

Section 324.4. Withholding on Income.--(a) Every lessee of Pennsylvania real estate who makes a lease payment in the course of a trade or business to a nonresident lessor shall withhold Pennsylvania personal income tax on rental payments to such nonresident lessor.

(b) Every lessee shall withhold from each payment made to a lessor an amount equal to the net amount payable to the lessor multiplied by the tax rate specified under section 302(b).

(c) (Reserved).

(d) The withholding of tax under this section is optional and at the discretion of the lessee with respect to payments to a lessor who receives less than \$5,000 annually on a lease.

(e) For purposes of this section, the term or phrase:

(1) "Lessor" shall include an individual, estate or trust.

(2) "Lease payment" shall include, but not be limited to, rents, royalties, bonus payments, damage payments, delay rents and other payments made pursuant to a lease, other than compensation derived from intangible property having a taxable or business situs in this Commonwealth. Classification as a "lease payment" under this section is solely for the purposes of establishing withholding requirements and shall not be relevant for a determination as to the proper income classification of any such lease payment.

(3) "In the course of a trade or business" shall include any person or business entity making lease payments to a nonresident or agent of a nonresident who collects rent or lease payments on behalf of a nonresident owner other than a tenant of residential property.

Section 324.5. Annual Withholding Statement.--(a) Every lessee shall furnish to each lessor an annual statement at such time and in such manner as may be prescribed by the department showing the total payments made by the lessee to the lessor during the preceding taxable year and showing the amount of the tax deducted and withheld from the payments under section 324.4.

(b) Every lessee shall file with the department an annual statement at such time and in such manner as may be prescribed by the department showing the total payments made to each lessor subject to withholding during the preceding taxable year or any portion of the preceding taxable year and the total amount of tax deducted and withheld under section 324.4.

(c) Every lessor shall file a duplicate of the annual statement furnished by the lessee under this section with the lessor's State income tax return.

Section 26. Sections 335(f) and 352(f), (h) and (j) of the act are amended to read:

Section 335. Requirements Concerning Returns, Notices, Records and Statements.--\* \* \*

(f) The following apply:

(1) Any person who:

(i) makes payments of **Pennsylvania source** income [from sources within this Commonwealth] **that fall within any of the eight classes of income enumerated in section 303(a);**

(ii) makes **such** payments [of nonemployee compensation or payments under an oil and gas lease under subparagraph (i) to a resident or nonresident] **to an** individual, an entity treated as a partnership for tax purposes or a single member limited liability company; and

(iii) is required to make a form 1099-MISC return to the Secretary of the Treasury of the United States with respect to [the] **such** payments, shall file a copy of **such** form 1099-MISC with the department and send a copy of **such** form 1099-MISC to the payee by [the Federal filing deadline] **March 1 of each year[.] or, if filed electronically, by March 31 of each year. If the form 1099-MISC filed by a payor with the Secretary of the Treasury of the United States is not completed in such a manner that State income and State tax withheld information, currently boxes 16 through 18 on Federal form 1099-MISC, is reflected thereon, the payor shall update the copies of form 1099-MISC to be provided pursuant to this section to reflect such information prior to filing it with the department and sending it to the payee.**

(2) If the payor is required to perform electronic filing for Pennsylvania employer withholding purposes, the form 1099-MISC shall be filed electronically with the department.

(3) As used in this subsection, the following words and phrases shall have the meanings given to them in this paragraph unless the context clearly indicates otherwise:

"Payee." The person receiving the payments subject to withholding under this subsection.

"Payments." The term does not include a partner or shareholder's distributive share of income from a partnership or Pennsylvania S corporation.

"Payor." The person required to withhold under this subsection.

\* \* \*

Section 352. Additions, Penalties and Fees.--\* \* \*

(f) (1) Any person required under the provisions of section 317 to furnish a statement to an employe who wilfully furnishes a false or fraudulent statement, or who wilfully fails to furnish a statement in the manner, at the time, and showing the information required under section 317 and the regulations prescribed thereunder, shall, for each such failure, be subject to a penalty of fifty dollars (\$50) for each employe.

(2) Any person required to furnish an information return who furnishes a false or fraudulent return or who fails to file or provide an information return shall be subject to a penalty of two hundred fifty dollars (\$250).

(3) Every partnership, estate, trust or Pennsylvania S corporation required to file a return with the department under the provisions of section 330.1 or 335(c) who furnishes a false or fraudulent return or who fails to file the return in the manner and at the time required under section 330.1 or 335(c) shall be subject to a penalty of \$250 for each failure.

(4) Any person required to file a copy of form 1099-MISC with the department under the provisions of section 335(f) who wilfully furnishes a false or fraudulent form or who wilfully fails to file the form in the manner, at the time and showing the information required under section 335(f) shall, for each such failure, be subject to a penalty of fifty dollars (\$50).

(5) Any person required under the provisions of section 335(f) to furnish a copy of form 1099-MISC to a payee who wilfully furnishes a false or fraudulent form or who wilfully fails to furnish a form in the manner, at the time and showing the information required by section 335(f) shall, for each such failure, be subject to a penalty of fifty dollars (\$50).

**(6) Any person required to file an annual statement with the department under the provisions of section 324.5 who wilfully furnishes a false or fraudulent statement or who wilfully fails to file the statement in the manner, at the time and showing the information required under section 324.5 and the regulations prescribed under section 324.5 shall, for each such failure, be subject to a penalty of fifty dollars (\$50).**

**(7) Any person required under the provisions of section 324.5 to furnish an annual statement to a lessor who wilfully furnishes a false or fraudulent statement or who wilfully fails to furnish a statement in the manner, at the time and showing the information required by section 324.5 and the regulations prescribed under section 324.5 shall, for each such failure, be subject to a penalty of fifty dollars (\$50).**

(h) If any amount of tax required to be withheld by an employer and paid over to the department under section 319 or 319.1 is not paid on or before the due date prescribed for filing the quarterly return under section 318 or 318.1, determined without regard to an extension of time for filing, there shall be added to the tax and paid to the department each month five per cent of such underpayment for each month or

fraction thereof from the due date, for the period from the due date to the date paid; but the underpayment shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid by the beginning of that month. The total of such additions shall not exceed fifty per cent of the amount of tax required to be shown on the return reduced by the amount of any part of the tax which is paid by the return due date and by the amount of any credit against the tax which may be claimed on the return.

\* \* \*

(j) If any amount of tax required to be withheld by a partnership, association [or], Pennsylvania S corporation **or lessee** and paid over to the department under section 324 **or 324.4** is not paid on or before the date prescribed therefor, there shall be added to the tax and paid to the department each month five per cent of such underpayment for each month or fraction thereof from the due date, for the period from the due date to the date paid; but the underpayment shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid by the beginning of that month. The total of such additions shall not exceed fifty per cent of the amount of such tax.

Section 27. Section 401(3)4(c) of the act is amended and the subclause is amended by adding a paragraph to read:

Section 401. Definitions.--The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

(3) "Taxable income." \* \* \*

4. \* \* \*

(c) (1) The net loss deduction shall be the lesser of:

(A) (I) For taxable years beginning before January 1, 2007, two million dollars (\$2,000,000);

(II) For taxable years beginning after December 31, 2006, the greater of twelve and one-half per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars (\$3,000,000);

(III) For taxable years beginning after December 31, 2008, the greater of fifteen per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars (\$3,000,000);

(IV) For taxable years beginning after December 31, 2009, the greater of twenty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars (\$3,000,000);

(V) For taxable years beginning after December 31, 2013, the greater of twenty-five per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or four million dollars (\$4,000,000);

(VI) For taxable years beginning after December 31, 2014, the greater of thirty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or five million dollars (\$5,000,000); [or]

**(VII) For taxable years beginning after December 31, 2017, thirty-five per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2;**

**(VIII) For taxable years beginning after December 31, 2018, forty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2; or**

(B) The amount of the net loss or losses which may be carried over to the taxable year or taxable income as determined under subclause 1 or, if applicable, subclause 2.

(1.1) In no event shall the net loss deduction include more than five hundred thousand dollars (\$500,000), in the aggregate, of net losses from taxable years 1988 through 1994.

(2) (A) A net loss for a taxable year may only be carried over pursuant to the following schedule:

Taxable Year	Carryover
1981	1 taxable year
1982	2 taxable years
1983-1987	3 taxable years
1988	2 taxable years plus 1 taxable year starting with the 1995 taxable year
1989	1 taxable year plus 2 taxable years starting with the 1995 taxable year
1990-1993	3 taxable years starting with the 1995 taxable year
1994	1 taxable year
1995-1997	10 taxable years
1998 and thereafter	20 taxable years

(B) The earliest net loss shall be carried over to the earliest taxable year to which it may be carried under this schedule. The total net loss deduction allowed in any taxable year shall not exceed:

(I) Two million dollars (\$2,000,000) for taxable years beginning before January 1, 2007.

(II) The greater of twelve and one-half per cent of the taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars (\$3,000,000) for taxable years beginning after December 31, 2006.

(III) The greater of fifteen per cent of the taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars (\$3,000,000) for taxable years beginning after December 31, 2008.

(IV) The greater of twenty per cent of the taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars (\$3,000,000) for taxable years beginning after December 31, 2009.

(V) The greater of twenty-five per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or four million dollars (\$4,000,000) for taxable years beginning after December 31, 2013.

(VI) The greater of thirty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or five million dollars (\$5,000,000) for taxable years beginning after December 31, 2014.

**(VII) Thirty-five per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 for taxable years beginning after December 31, 2017.**

**(VIII) Forty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 for taxable years beginning after December 31, 2018.**

(c.1) A deduction under Part IV-A shall be allowed from taxable income as prescribed in a satisfaction commitment letter executed between the Department of Community and Economic Development and a taxpayer under section 407.7(c).

\* \* \*

Section 28. Article IV of the act is amended by adding a part to read:

**PART IV-A  
QUALIFIED MANUFACTURING INNOVATION  
AND REINVESTMENT DEDUCTION**

Section 407.6. Definitions.--(a) For the purposes of this part only, the following words, terms and phrases shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) "Annual taxable payroll." The total amount of wages paid in this Commonwealth by a taxpayer for the base year or year one, as applicable, from which personal income tax under Article III is withheld.

(2) "Base year." The four calendar quarters preceding the start date.

(3) "Department." The Department of Community and Economic Development of the Commonwealth.

(4) "Manufacture." The mechanical, physical, biological or chemical transformation of materials, substances or components into new products that are creations of new items of tangible personal property for sale.

(5) "Qualified manufacturing innovation and reinvestment deduction." An allowable deduction as determined, calculated and executed in a commitment letter between the department and the taxpayer.

(6) "Qualified tax liability." A taxpayer's tax liability under this article.

(7) "Start date." The first day of the calendar quarter in which a taxpayer advises the department of the taxpayer's intent to initiate an eligible project unless the applicant requests and the department agrees to a later start date.

(8) "Taxpayer." An employer subject to the tax under this article.

(9) "Year one." The four calendar quarters immediately following the start date.

(b) (Reserved).

Section 407.7. Manufacturing Innovation and Reinvestment Deduction.--(a) In order to be eligible to receive a manufacturing innovation and reinvestment deduction, a taxpayer must demonstrate to the department a capital investment in excess of one hundred million dollars (\$100,000,000) for the creation of new or refurbished manufacturing capacity within three years of a designated start date.

(b) (1) A taxpayer must advise the department in advance of the start date of any project for which the taxpayer may seek a qualified manufacturing innovation and reinvestment deduction. A taxpayer must attest the taxpayer's intent to meet the eligibility criteria and provide relevant information pertinent to the project's size and scope in a manner as determined by the department.

(2) Within five years of a project's start date, a taxpayer must complete to the department's satisfaction an application on a form and in a manner as determined by the department to attest that the project has been completed and the eligibility criteria has been satisfied.

(c) Upon the receipt of the taxpayer's application, the Department of Revenue must make a finding that the applicant has filed all required State tax reports and returns for all applicable tax years and paid any balance of State tax due as determined at settlement, assessment or determination and the department, then in conjunction with the Department of Revenue,

shall make an eligibility or satisfaction determination within ninety days of submission. If the department makes a satisfaction determination, the department and the taxpayer shall execute a satisfaction commitment letter containing the following:

(1) The number of new jobs created and their corresponding description.

(2) The number of new jobs created during construction of the project.

(3) The amount of private capital investment in the creation of new jobs.

(4) The increase in the annual taxable payroll attributable to new manufacturing jobs.

(5) A determination of the maximum allowable deduction against a taxpayer's qualified tax liability under this article.

(6) Any other information as the department deems appropriate.

(d) (1) Upon determining a taxpayer's satisfaction of the eligibility criteria, the department shall calculate the maximum allowable deduction that a taxpayer may claim against the taxpayer's taxable income under this article. The deduction shall be equal to five per cent of the private capital investment utilized in the creation of new or refurbished manufacturing capacity per tax year for a period of five years.

(2) A taxpayer may utilize the amount of the deduction in each year of the succeeding five tax years immediately following the department's satisfaction determination and the execution of a satisfaction commitment letter.

(3) A taxpayer cannot use the deduction to reduce its tax liability by more than fifty per cent of the tax liability under this article for the taxable year. The deduction is nontransferable and any unused portion in a tax year shall expire at the end of the corresponding tax year.

Section 29. The definition of "veterans' organization" in section 1101-C of the act, added July 13, 2016 (P.L.526, No.84), is amended to read:

Section 1101-C. Definitions.--The following words when used in this article shall have the meanings ascribed to them in this section:

\* \* \*

"Veterans' **service** organization." A not-for-profit organization that [is recognized by the Internal Revenue Service as a tax exempt organization described under section 501(c)(19) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(19)). For the purposes of this article, the term shall only include a not-for-profit organization for the period in which the organization has a valid tax exemption under section 501(c)(19) of the Internal Revenue Code of 1986, as determined by the Internal Revenue Service.] **has been chartered by the Congress of the United States to service veterans or is a member of the State Veterans' Commission under 51 Pa.C.S. Ch. 17 (relating to State Veterans' Commission and Deputy Adjutant General for Veterans' Affairs).**

\* \* \*

Section 30. Section 1102-C.2 of the act, amended July 13, 2016 (P.L.526, No.84), is amended to read:

Section 1102-C.2. Exempt Parties.--The United States, the Commonwealth or any of their instrumentalities, agencies or political subdivisions, or veterans' **service** organizations shall be exempt from payment of the tax imposed by this article. The exemption under this section shall not, however, relieve any other party to a transaction from liability for the tax.

Section 31. The act is amended by adding an article to read:

**ARTICLE XVII-A.1**

**TAX CREDIT ELIGIBILITY**

**Section 1701-A.1. Definitions.**

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Revenue of the Commonwealth.

"Tax credit." A tax credit authorized under any of the following:

- (1) Article XVII-B.
- (2) Article XVII-D.
- (3) Article XVII-E.
- (4) Article XVII-G.
- (5) Article XVII-H.
- (6) Article XVII-I.
- (7) Article XVII-J.
- (8) Article XVII-K.
- (9) Article XVIII.
- (10) Article XVIII-B.
- (11) Article XVIII-D.
- (12) Article XVIII-E.
- (13) Article XVIII-F.
- (14) Article XVIII-G.
- (15) Article XIX-A.
- (16) Article XIX-E.
- (17) Section 2010.
- (18) Article XXIX-D.
- (19) Article XX-B of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

**Section 1702-A.1. Eligibility.**

(a) Except as otherwise provided by law, before a tax credit can be awarded, the department may make a finding that the taxpayer has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement or assessment by the department, unless the tax due is currently under appeal.

(b) (Reserved).

Section 32. Section 1711-D of the act is amended by adding definitions to read:

**Section 1711-D. Definitions.**

The following words and phrases when used in this subarticle shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Deteriorated property." Any blighted, impoverished area containing industrial, commercial or other real property that is abandoned, unsafe, vacant, undervalued, underutilized, overgrown, defective, condemned, demolished or which contains economically undesirable land use.

\* \* \*

"Film production tax credit district." A district authorized under section 1716.2-D.

\* \* \*

Section 33. Section 1712-D of the act is amended by adding a subsection to read:

Section 1712-D. Credit for qualified film production expenses.

\* \* \*

(b.1) Review and approval of applications for film production tax credit district activity.--For applications involving film production expenses incurred within a designated film production tax credit district authorized under section 1716.2-D, the department shall accept applications at any time.

Applications shall be reviewed by the department utilizing the criteria required under subsection (b). Upon determining the taxpayer has incurred or will incur qualified film production expenses, the department shall approve the taxpayer for a tax credit utilizing the tax credits authorized under section 1716.2-D, not to exceed the amount authorized for the fiscal year.

\* \* \*

Section 34. The act is amended by adding a section to read:  
Section 1716.2-D. Film production tax credit districts.

(a) Establishment.--The department may designate not more than two film production tax credit districts for the purpose of enhancing, promoting and expanding film production opportunities and establishing a film production industry within this Commonwealth.

(b) Criteria.--A film production tax credit district shall:

- (1) Be at least 55 acres in size.
- (2) Be located on deteriorated property.
- (3) Be comprised of a parcel that is or will be occupied by two or more qualified businesses that:

- (i) in the aggregate, make a capital investment of at least \$400,000,000 within the district within five years after the effective date of the designation of the district; and

- (ii) are dedicated to film production activity, postproduction activity or other activities that directly or indirectly support film production activity occurring within the district or within this Commonwealth.

- (4) Contain at least one qualified production facility and six sound stages.

(c) Application.--The following apply:

- (1) An application to designate a film production tax credit district may be made by the county or municipality in which all or part of the district will be located. The department shall review the application and, if approved, issue a designation for the film production tax credit district. The application period shall be set by the department.

- (2) The application shall contain the following information:

- (i) The geographic area of the proposed film production tax credit district.

- (ii) A detailed map of the proposed district, including geographic boundaries, total area and present use and conditions of the land and structures.

- (iii) A description of the current social, economic and demographic characteristics of the proposed district and anticipated improvements in education, health, human services, public safety and employment that will result from designation of the district.

- (iv) A description of anticipated film production activity and ancillary activities in the proposed district.

- (v) Evidence of potential private and public investment in the proposed district.

- (vi) The role of the proposed district in regional economic and community development.

(d) Designation period.--A district designated under subsection (c) shall expire 15 years after the effective date of the designation.

(e) Construction.--The tax credits authorized under this section are in addition to the tax credits under section

1716-D(a) and are available exclusively for activities occurring within the designated district.

(f) Annual tax credits.--The department may authorize a tax credit for a film production tax credit district in fiscal year 2019-2020 and in each fiscal year thereafter.

Section 35. Article XVII-D of the act is amended by adding a subarticle to read:

#### SUBARTICLE E

##### ENTERTAINMENT ECONOMIC ENHANCEMENT PROGRAM

Section 1771-D. Scope of subarticle.

This subarticle relates to the Entertainment Economic Enhancement Program.

Section 1772-D. Definitions.

The following words and phrases when used in this subarticle shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Class 1 venue." A stadium, arena, other structure or property owned by a municipality or an authority formed under Article XXV-A of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, at which concerts are performed and which is all of the following:

(1) Located in a city of the first class or a county of the second class.

(2) Constructed in a manner in which the venue has a seating capacity of at least 14,000.

"Class 2 venue." A stadium, arena or other structure at which concerts are performed and which is all of the following:

(1) Located outside the geographic boundaries of a city of the first class or a county of the second class.

(2) Constructed in a manner in which the venue has a seating capacity of at least 6,000.

"Class 3 venue." A stadium, arena or other structure which is any of the following:

(1) Located within a neighborhood improvement zone, as defined in section 1902-B.

(2) Owned by or affiliated with a State-related institution as defined in 62 Pa.C.S. § 103 (relating to definitions).

(3) Owned by the Commonwealth and affiliated with the State System of Higher Education.

"Concert." A live performance of music in the presence of individuals who view the performance.

"Concert tour equipment." Includes stage, set, scenery, design elements, automation, rigging, trusses, spotlights, lighting, sound equipment, video equipment, special effects, cases, communication devices, power distribution equipment, backline and other miscellaneous equipment or supplies used during a concert or rehearsal.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Maintained a place of business" or "maintaining a place of business." All of the following:

(1) Having, maintaining or using within this Commonwealth an office, warehouse or other place of business.

(2) Regularly engaging in an activity as a business within this Commonwealth in connection with the lease, sale or delivery of tangible personal property or the performance of a service for residents of this Commonwealth.

"Minimum rehearsal and tour requirements." During a tour, all of the following must occur:

(1) The purchase or rental of concert tour equipment delivered to a location in this Commonwealth, in an amount

of at least \$3,000,000, from companies located and maintaining a place of business in this Commonwealth for use on the tour.

(2) A rehearsal at a qualified rehearsal facility for a minimum of 10 days.

(3) At least one concert performed at a class 1 venue.

(4) At least one concert performed at a venue which is located in a municipality other than the municipality in which the class 1 venue under paragraph (3) is located.

"Pass-through entity." Any of the following:

(1) A partnership as defined in section 301(n.0).

(2) A Pennsylvania S corporation as defined in section 301(n.1).

(3) An unincorporated entity subject to section 307.21.

"Pennsylvania rehearsal and tour expenses." The sum of Pennsylvania rehearsal expenses and tour expenses. The term includes Pennsylvania rehearsal expenses and tour expenses paid prior to or during a rehearsal or tour.

"Pennsylvania rehearsal expense." A rehearsal expense which is incurred or will be incurred within this Commonwealth. The term includes:

(1) A payment which is made or will be made by a recipient to a person upon which withholding will be made on the payment by the recipient as required under Part VII of Article III or a payment which is made or will be made to a person who is required to make estimated payments under Part VIII of Article III.

(2) A payment which is made or will be made to a personal service corporation representing individual talent if the tax imposed by Article IV will be paid or accrued on the net income of the corporation for the taxable year.

(3) A payment which is made or will be made to a pass-through entity representing individual talent for which withholding will be made by the pass-through entity on the payment as required under Part VII or VII-A of Article III.

"Qualified rehearsal and tour expense." All Pennsylvania rehearsal and tour expenses if Pennsylvania rehearsal expenses comprise or will comprise at least 60% of the total rehearsal expenses. The term shall not include more than \$2,000,000 in the aggregate of compensation paid or to be paid to individuals or payment made or to be made to entities representing an individual for services provided in the tour.

"Qualified rehearsal facility." A rehearsal facility which meets at least six of the following criteria:

(1) Has had a minimum of \$8,000,000 invested in the rehearsal facility in land or structure, or a combination of land and structure.

(2) Has a permanent grid system with a capacity of 1,000,000 pounds.

(3) Has a built-in power supply system available at a minimum of 3,200 amps without the need for supplemental generators.

(4) Has a height from floor to permanent grid of a minimum of 80 feet.

(5) Has at least two sliding or roll-up access doors with a minimum height of 14 feet.

(6) Has a perimeter security system which includes 24-hour, seven-days-a-week security cameras and the use of access control identification badges.

(7) Has a service area with production offices, catering and dressing rooms with a minimum of 5,000 square feet.

(8) Is located within one mile of a minimum of two companies which provide concert tour equipment for use on a tour.

"Qualified tax liability." The liability for taxes imposed under Article III, IV, VI, VII or IX. The term does not include tax withheld by an employer from an employee under Article III.

"Recipient." A taxpayer that has been awarded a tax credit under section 1773-D(e).

"Rehearsal." An event or series of events which occur in preparation for a tour prior to the start of the tour or during a tour when additional preparation may be needed.

"Rehearsal expense." All of the following when incurred or will be incurred during a rehearsal:

(1) Compensation paid or to be paid to an individual employed in the rehearsal of the performance.

(2) Payment to a personal service corporation representing individual talent.

(3) Payment to a pass-through entity representing individual talent.

(4) The costs of construction, operations, editing, photography, staging, lighting, wardrobe and accessories.

(5) The cost of leasing vehicles.

(6) The cost of transportation of people or concert tour equipment to or from a train station, bus depot, airport or other transportation facility or directly from a residence or business entity.

(7) The cost of insurance coverage.

(8) The cost of food and lodging.

(9) The cost of purchase or rental of concert tour equipment.

(10) The cost of renting a rehearsal facility.

(11) The cost of emergency or medical support services required to conduct a rehearsal.

"Rehearsal facility." As follows:

(1) A facility primarily used for rehearsals which is all of the following:

(i) Located within this Commonwealth.

(ii) Has a minimum of 25,000 square feet of column-free, unobstructed floor space.

(2) The term does not include a facility at which concerts are capable of being held.

"Start date." The date the first set of concert tour equipment arrives or is expected to arrive at a qualified rehearsal facility.

"Tax credit." The concert rehearsal and tour tax credit as provided under this subarticle.

"Taxpayer." A concert tour promotion company, concert tour management company or other concert management company subject to tax under Article III, IV or VI. The term does not include contractors or subcontractors of a concert tour promotion company, concert tour management company or other concert management company.

"Tour." A series of concerts performed or to be performed by a musical performer in more than one location. The term includes at least one rehearsal.

"Tour expense." As follows:

(1) Costs incurred or which will be incurred during a tour for venues located in this Commonwealth. The term includes all of the following:

(i) A payment which is made or will be made by a recipient to a person upon which withholding will be made on the payment by the recipient as required under

Part VII of Article III or a payment which is made or will be made to a person who is required to make estimated payments under Part VIII of Article III.

(ii) The cost of transportation of people or concert touring equipment which is incurred or will be incurred while transporting to or from a train station, bus depot, airport or other transportation facility or while transporting directly from a residence or business entity located in this Commonwealth, or which is incurred or will be incurred for transportation provided by a company which is subject to the tax imposed under Article III or IV.

(iii) The cost of leasing vehicles upon which the tax imposed by Article II will be paid or accrued.

(iv) The cost of insurance coverage which is purchased or will be purchased through an insurance agent based in this Commonwealth.

(v) The cost of purchasing or renting facilities and equipment from or through a resident of this Commonwealth or an entity subject to taxation in this Commonwealth.

(vi) The cost of food and lodging which is incurred or will be incurred from a facility located in this Commonwealth.

(vii) Expenses which are incurred or will be incurred in marketing or advertising a tour at venues located within this Commonwealth.

(viii) The cost of merchandise which is purchased or will be purchased from a company located within this Commonwealth and used on the tour.

(ix) A payment which is made or will be made to a personal service corporation representing individual talent if the tax imposed by Article IV will be paid or accrued on the net income of the corporation for the taxable year.

(x) A payment which is made or will be made to a pass-through entity representing individual talent for which withholding will be made by the pass-through entity on the payment as required under Part VII or VII-A of Article III.

(2) The term does not include development cost, including the writing of music or lyrics.

"Venue." A class 1, class 2 or class 3 venue.

#### Section 1773-D. Procedure.

(a) Application.--A taxpayer may apply to the department for a tax credit under this section. The application shall be on the form required by the department.

(b) Review and approval.--

(1) The department shall establish application periods not to exceed 30 days. All applications received during an application period shall be reviewed and evaluated by the department based on the following criteria:

(i) The anticipated number of rehearsal days in a qualified rehearsal facility.

(ii) The anticipated number of concerts at class 1 venues.

(iii) The anticipated number of concerts at class 2 venues.

(iv) The anticipated number of concerts at class 3 venues.

(v) The anticipated amount of Pennsylvania rehearsal expenses in comparison to the anticipated aggregate amount of rehearsal expenses.

(vi) The anticipated amount of the tour expenses.

(vii) The anticipated amount of the concert tour equipment expenses which are or will be purchased or rented from a company located and maintaining a place of business in this Commonwealth and which will be used on the tour.

(viii) The anticipated number of days spent in Commonwealth hotels.

(ix) Other criteria that the department deems appropriate to ensure maximum employment opportunities and entertainment benefits for the residents of this Commonwealth.

(2) Except as provided in subsection (c) and upon determining that the taxpayer has paid the applicable application fee not to exceed \$300, has met or will meet the minimum rehearsal and tour requirements and has incurred or will incur qualified rehearsal and tour expenses, the department may approve the taxpayer for a tax credit. Applications not approved may be reviewed and considered in subsequent application periods. The department may approve a taxpayer for a tax credit based on its evaluation of the criteria under this subsection.

(c) Restriction.--The department may only consider rehearsals held or to be held, and qualified rehearsal and tour expenses incurred or to be incurred, after January 1, 2017, in determining whether a taxpayer has met or will meet the minimum rehearsal and tour requirements.

(d) Contract.--If the department approves the taxpayer's application under subsection (b), the department and the taxpayer shall enter into a contract containing the following:

(1) An itemized list of rehearsal expenses incurred or to be incurred for the tour.

(2) An itemized list of Pennsylvania rehearsal expenses incurred or to be incurred for the tour.

(3) With respect to a contract entered into prior to completion of a tour, a commitment by the taxpayer to incur the Pennsylvania rehearsal expenses as itemized.

(4) An itemized list of the qualified rehearsal and tour expenses incurred or to be incurred for the tour.

(5) With respect to a contract entered into prior to completion of a tour, a commitment by the taxpayer to incur the qualified rehearsal and tour expenses as itemized.

(6) With respect to a contract entered into prior to completion of a tour, a commitment by the taxpayer to hold at least one concert at a class 1 venue.

(7) With respect to a contract entered into prior to completion of a tour, a commitment by the taxpayer to hold at least one concert at a venue located in a municipality other than the municipality in which the class 1 venue under paragraph (6) is located.

(8) The start date or the expected start date.

(9) Any other information the department deems appropriate.

(e) Certificate.--Upon execution of the contract required by subsection (d), the department shall award the taxpayer a concert rehearsal and tour tax credit and issue the recipient a tax credit certificate.

Section 1774-D. Claim.

Beginning July 1, 2017, a recipient may claim a concert rehearsal and tour tax credit against the qualified tax liability of the recipient.  
Section 1775-D. Carryover, carryback and assignment of tax credit.

(a) General rule.--If a recipient cannot use the entire amount of a tax credit for the taxable year in which the tax credit is first approved, the excess may be carried over to succeeding taxable years and used as a tax credit against the qualified tax liability of the recipient for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, the tax credit shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit may be carried over and applied to succeeding taxable years for no more than three taxable years following the first taxable year for which the recipient was entitled to claim the tax credit.

(b) Application.--A tax credit approved by the department in a taxable year first shall be applied against the recipient's qualified tax liability for the current taxable year as of the date on which the tax credit was approved before the tax credit can be applied against tax liability under subsection (a).

(c) No carryback or refund.--A recipient shall not be entitled to carry back or obtain a refund of any portion of an unused tax credit granted to the recipient under this subarticle.

(d) Sale or assignment.--The following shall apply:

(1) A recipient, upon application to and approval by the department, may sell or assign, in whole or in part, a tax credit granted to the recipient under this subarticle.

(2) The department and the Department of Revenue shall jointly promulgate regulations for the approval of applications under this subsection.

(3) Before an application is approved, the Department of Revenue must make a finding that the recipient has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement, assessment or determination by the Department of Revenue.

(4) Notwithstanding any other provision of law, the Department of Revenue shall settle, assess or determine the tax of a taxpayer under this subsection within 60 days of the filing of all required final returns or reports in accordance with section 806.1(a)(5) of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(e) Purchasers and assignees.--The following apply:

(1) The purchaser or assignee of all or a portion of a tax credit under subsection (d) shall immediately claim the tax credit in the taxable year in which the purchase or assignment is made.

(2) The amount of the tax credit that a purchaser or assignee may use against one qualified tax liability may not exceed 50% of the qualified tax liability for the taxable year.

(3) The purchaser or assignee may not carry forward, carry back or obtain a refund of or sell or assign the tax credit.

(4) The purchaser or assignee shall notify the Department of Revenue of the seller or assignor of the tax credit in compliance with procedures specified by the Department of Revenue.

Section 1776-D. Determination of Pennsylvania rehearsal and tour expenses.

When prescribing standards for determining which rehearsal or tour expenses are considered Pennsylvania rehearsal and tour expenses for purposes of computing the tax credit provided by this subarticle, the department shall consider:

- (1) The location where services are performed.
- (2) The location where concert tour equipment is purchased, rented, delivered and used.
- (3) The location where rehearsals or concerts are held.
- (4) Other factors the department determines are relevant.

Section 1777-D. Limitations.

(a) Cap.--Except as provided in this subsection, the department may not award tax credits for qualified rehearsal and tour expenses incurred or to be incurred related to more than five tours in a fiscal year. In a fiscal year, the department may, in the department's discretion, advance the award of tax credits for qualified rehearsal and tour expenses incurred or to be incurred related to a maximum of two additional tours.

(b) Advance award of credits.--The advance award of tax credits under subsection (a) shall:

- (1) count against the total number of tours that the department may award tax credits for qualified rehearsal and tour expenses incurred or to be incurred related to a tour in that next succeeding fiscal year; and
- (2) reduce the number of tours that the department may award tax credits for qualified rehearsal and tour expenses incurred or to be incurred related to a tour in that next succeeding fiscal year.

(c) Individual limitations.--The following shall apply:

- (1) A taxpayer may not be awarded more than \$800,000 of tax credits for a tour.
- (2) Except as provided under paragraph (5), the aggregate amount of tax credits awarded by the department under section 1773-D(e) to a taxpayer for a tour with concerts at two class 1 venues or a class 1 venue and a class 2 venue may not exceed 25% of the qualified rehearsal and tour expenses incurred or to be incurred.
- (3) Except as provided under paragraph (5), the aggregate amount of tax credits awarded by the department under section 1773-D(e) to a taxpayer for a tour with concerts at a class 1 venue and a class 3 venue may not exceed 30% of the qualified rehearsal and tour expenses incurred or to be incurred.

(4) Except as provided under paragraph (5), the aggregate amount of tax credits awarded by the department under section 1773-D(e) to a taxpayer for a tour with concerts at a class 1 venue and a class 3 venue which does not serve alcohol may not exceed 35% of the qualified rehearsal and tour expenses incurred or to be incurred.

(5) In addition to the tax credits under paragraph (2), (3) or (4), a taxpayer is eligible for a tax credit in the amount of 5% of the qualified rehearsal and tour expenses incurred or to be incurred by the taxpayer if the taxpayer holds concerts at a total of two or more class 2 venues or class 3 venues.

(d) Qualified rehearsal facility.--To be considered a qualified rehearsal facility under this subarticle, the owner of a rehearsal facility shall provide evidence to the department to verify the development or facility specifications and capital

improvement costs incurred for the rehearsal facility so that the threshold amounts set in the definition of qualified rehearsal facility under section 1772-D are satisfied, and, upon verification, the rehearsal facility shall be registered by the department officially as a qualified rehearsal facility.

(e) Waiver.--The department may make a determination that the financial benefit to this Commonwealth resulting from the direct investment in or payments made to Pennsylvania rehearsal and concert facilities outweighs the benefit of maintaining the 60% Pennsylvania rehearsal expenses requirement contained in the definition of qualified rehearsal and tour expense under section 1772-D. If the determination is made, the department may waive the requirement that 60% of a tour's aggregate rehearsal expenses be comprised of Pennsylvania rehearsal expenses.

#### Section 1778-D. Penalty.

A recipient which claims a tax credit and fails to incur the amount of qualified rehearsal and tour expenses agreed to under section 1773-D(d)(4) for a tour in that taxable year shall repay to the Commonwealth an amount equal to 110% of the difference between the amount agreed to under section 1773-D(d)(4) and the amount of qualified rehearsal and tour expenses actually incurred by the recipient. The penalty shall be assessed and collected under Article II.

#### Section 1779-D. Pass-through entity.

(a) General rule.--If a pass-through entity has any unused tax credits under section 1775-D, the pass-through entity may elect in writing, according to procedures established by the Department of Revenue, to transfer all or a portion of the tax credits to shareholders, members or partners in proportion to the share of the entity's distributive income to which each shareholder, member or partner is entitled.

(b) Limitation.--A pass-through entity and a shareholder, member or partner of a pass-through entity may not claim the tax credit under subsection (a) for the same qualified rehearsal and tour expense.

(c) Application.--A shareholder, member or partner of a pass-through entity to whom a tax credit is transferred under subsection (a) shall immediately claim the tax credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the tax credit.

#### Section 1780-D. Department guidelines and regulations.

The department shall develop written guidelines for the implementation of this subarticle. The guidelines shall be in effect until the department promulgates regulations for the implementation of this subarticle.

#### Section 1781-D. Report to General Assembly.

No later than June 1, 2018, and September 1 of each year thereafter, the Secretary of Community and Economic Development shall submit a report to the General Assembly summarizing the effectiveness of the tax credits provided by this subarticle. The report shall include the name of the tours which rehearsed in this Commonwealth, the names of all recipients awarded a tax credit as of the date of the report and the amount of tax credits approved for each recipient. The report may also include recommendations for changes in the calculation or administration of the tax credits provided under this subarticle. The report shall be submitted to the chairperson and minority chairperson of the Appropriations Committee of the Senate, the chairperson and minority chairperson of the Finance Committee of the Senate, the chairperson and minority chairperson of the Appropriations

Committee of the House of Representatives and the chairperson and minority chairperson of the Finance Committee of the House of Representatives. The report shall include the following information, which shall be separated by geographic location within this Commonwealth:

(1) The amount of tax credits claimed during the fiscal year by tour.

(2) The total amount spent in this Commonwealth during the fiscal year by tours and concert tour promotion companies for services and supplies.

(3) The total amount of tax revenues, both directly and indirectly, generated for the Commonwealth during the fiscal year by the concert rehearsal and tour industry.

Section 36. The definition of "qualified tax liability" in section 1702-G of the act is amended to read:

Section 1702-G. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

"Qualified tax liability." The liability for taxes imposed under Articles III, IV, VI, VII, VIII, IX, XI and XV. The term does not include tax withheld under section [316] **316.1**.

\* \* \*

Section 36.1. Section 1811-C(b) of the act is amended by adding a paragraph to read:

Section 1811-C. Certification.

\* \* \*

(b) Content.--

\* \* \*

(3) The department shall request documentation regarding State eligible taxes paid or refunds received from the agency required to collect the taxes or issue the refunds before requiring such documentation from the qualified business. Instructions issued by the department after the effective date of this section shall include a statement that the qualified business will not be required to submit supporting documentation with the qualified business's request for certification under this article. Nothing in this paragraph shall prohibit the department from auditing reports submitted by qualified businesses for compliance with this article.

\* \* \*

Section 37. Sections 1813-C and 1814-C of the act, amended July 13, 2016 (P.L.526, No.84), are amended to read:

Section 1813-C. Restrictions.

(a) Utilization.--Money transferred under section 1812-C may only be utilized for the following:

(1) Payment of debt service on bonds issued or refinanced for the acquisition, development, construction, including related infrastructure and site preparation, reconstruction, renovation or refinancing of a facility in the zone and normal and customary fees for professional services associated with the issuance or refinance of the bonds.

(2) Acquisition, development, construction, including related infrastructure and site preparation, reconstruction, renovation or refinancing of all or a part of a facility.

(3) Replenishment of amounts in debt service reserve funds established to pay debt service on bonds.

(4) Employment of an independent auditing firm to perform the duties under section 1807-C(c).

(5) Improvement or development of all or part of a zone.

(6) Improvement projects, including fixtures and equipment for a facility owned, in whole or in part, by a public authority.

(7) Payment or reimbursement of reasonable administrative, auditing and compliance services required by this article. Reasonable administrative costs may not exceed 5% of the money transferred under section 1812-C. For purposes of this paragraph, professional services shall not be considered administrative costs.

(b) Prohibition.--Money transferred under section 1812-C may not be utilized for maintenance or repair of a facility.

(c) Excess money.--

(1) [If] **Except as set forth in paragraph (4), if** the amount of money transferred to the fund under sections 1811-C(c) and 1812-C in any one calendar year exceeds the money utilized under this section in that calendar year, the contracting authority shall submit by April 15 following the end of the calendar year the excess money to the State Treasurer for deposit into the General Fund.

(2) At the time of submission to the State Treasurer, the contracting authority shall submit to the State Treasurer, the office and the department a detailed accounting of the calculation resulting in the excess money.

(3) The excess money shall be credited to the contracting authority and applied to the amount required to be repaid under section 1812-C(c)(5) until there is full repayment.

**(4) Paragraph (1) does not apply to money utilized in a pilot zone provided the excess money is used in accordance with subsection (a).**

(d) Matching funds.--

(1) The amount of money transferred from the fund utilized for the acquisition, development, construction, including related site preparation and infrastructure, reconstruction or renovation of facilities, or normal and customary fees for professional services shall be matched by private, Federal or local money at a ratio of five fund dollars to one private, Federal or local dollar. The contracting authority shall verify the private, Federal or local match for a project at the time of the bond and report proof of the match to the agencies. All of the following shall be deemed private money:

(i) Equity.

(ii) Private developer debt and financing.

(iii) Soft costs associated with land development.

(iv) Costs of professional services associated with development.

(v) Costs associated with improvements of the parcel.

(vi) Costs of land acquisition and real estate transactions.

(1.1) Private, Federal or local dollars invested in any single year or multiple years may be amortized over the term of the private or public financing provided to the project in order to meet the matching fund ratio of five fund dollars to one private, Federal or local dollar invested in the project.

(2) By April 1 following the baseline year and for each year thereafter, the contracting authority shall file an annual report with the Department of Community and Economic Development, the office and the department that contains a detailed account of the fund money expenditures and the

private, Federal or local money expenditures and a calculation of the ratio in paragraph (1) for the prior calendar year.

(3) If it is determined that insufficient private, Federal or local money was utilized under paragraph (1), the amount of fund money utilized under paragraph (1) in the prior calendar year shall be deducted from the next transfer of the fund.

Section 1814-C. Transfer of property.

(a) Property.--Parcels in a zone where a facility has not been constructed, reconstructed or renovated using money under this article may be transferred out of the zone, if the contracting authority provides a notarized certification, confirmed in the annual audit required under section 1807-C(c), that no fund dollars were used on the property. Additional acreage, not to exceed the acreage transferred out of the zone, may be [simultaneously] added to the zone.

(a.1) Public meeting.--Prior to requesting approval, the contracting authority shall hold a public meeting to consider the proposed transfer. At the meeting, any interested party may attend and offer comment on the proposal change.

(a.2) Infeasibility.--

(1) If no activity in furtherance of development has taken place on the parcel within eight years of the enactment of this section or designation of the zone, whichever occurs later, the contracting authority may conduct a public hearing on the feasibility of the parcel to continue with the designation pursuant to a request from the city or municipality where the parcel sits. The hearing shall be held and notice provided to the owner of the parcel in accordance with section 908 of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code. For purposes of this section, activity shall include, but not be limited to, construction, building, renovation, reconstruction, site preparation and site development.

(2) If the contracting authority determines that the project is no longer feasible, the contracting authority shall issue a written opinion within 45 days of the hearing setting forth the reasons supporting the determination and verifying that no activity has taken place. The decision may be appealed in accordance with section 1001-A of the Pennsylvania Municipalities Planning Code.

(b) Approval.--A transfer under subsections (a) and (a.2) must be approved by the Department of Community and Economic Development in consultation with the office and the department.

Section 38. (Reserved).

Section 39. The act is amended by adding a section to read:

**Section 1904.3-B. Transfer of property.**

**(a) Transfer of parcels.--Parcels in a zone may be transferred out of the zone and replaced with parcels not to exceed the acreage transferred out of the zone by the contracting authority, if:**

**(1) The department certifies that there is currently no activity in the parcels transferred in the zone that generates tax receipts or other revenue to the Commonwealth.**

**(2) The municipality where the zone is located certifies that there is currently no activity in the parcels transferred into the zone that generates tax receipts or other revenue, other than taxes on real property, to the municipality and the school district and county where the zone is located.**

(b) Public hearing.--The following apply:

(1) For a parcel identified by the contracting authority to be transferred out of the zone, the contracting authority may conduct a public hearing pursuant to a request from an owner of real estate located within the parcel or the city or municipality where the parcel sits. The hearing shall be held and notice of the hearing provided to the owner of the parcel in accordance with section 908 of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

(2) If the contracting authority determines that it will transfer a parcel out of the zone, the contracting authority shall issue a written opinion within 45 days of the hearing setting forth the reasons supporting the determination.

Section 40. Section 1911-D(c) of the act, added July 13, 2016 (P.L.526, No.84), is amended to read:

Section 1911-D. Additional keystone opportunity zones.

\* \* \*

(c) Application.--In order to receive a designation under this section, the department must receive an application from a political subdivision or its designee no later than October 1, [2016] **2018**. The application must contain the information required under section 302(a)(1), (2)(i) and (ix), (5) and (6) of the KOZ Act. The department, in consultation with the Department of Revenue, shall review the application and, if approved, issue a certification of all tax exemptions, deductions, abatements or credits under this act for the zone within three months of receipt of the application. The department shall act on an application for a designation under section 302(a)(1) of the KOZ Act by December 31, [2016] **2018**. The department may make designations under this section on a rolling basis during the application period.

\* \* \*

Section 41. Section 2166 of the act is amended to read:

Section 2166. Timely Mailing Treated as Timely Filing and Payment.--Notwithstanding the provisions of any State tax law to the contrary, whenever a report or payment of all or any portion of a State tax is required by law to be received by the department or other agency of the Commonwealth on or before a day certain, the taxpayer shall be deemed to have complied with the law if the letter transmitting the report or payment of the tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received. For the purposes of this article, presentation of a receipt indicating that the report or payment was mailed by registered or certified mail on or before the due date shall be evidence of timely filing and payment. **Any inheritance tax return filed after July 1, 2012, under section 2136 that reports transfers of property that are exempt from the inheritance tax under section 2111(s), (s.1) and (t) shall be considered timely filed if filed within one year of the tax return due date, including an extended due date.**

Section 42. Section 2301(e) of the act is amended and the section is amended by adding a subsection to read:

Section 2301. Public Transportation Assistance Fund.--\* \* \*

(e) [There] **Except as provided in subsection (e.1), there** is hereby imposed on each rental of a motor vehicle subject to tax under Article II a fee of two dollars (\$2) for each day or part of a day for which the vehicle is rented.

(e.1) (1) There is hereby imposed on each rental of a motor vehicle subject to tax under Article II and used in carsharing a fee for each day or part of a day computed according to the following schedule:

Rental Interval	Fee
Less than 2 hours	\$0.25
2 to 3 hours	\$0.50
More than 3, but less than 4 hours	\$1.25
4 hours or more	\$2.00

(2) For purposes of this subsection, the term "carsharing" shall mean a membership-based service that provides an alternative to personal car ownership and which meets the following conditions:

(i) Does not require a trip-specific written agreement each time a member rents a vehicle.

(ii) Does not require an attendant to be present at the beginning or end of a rental.

(iii) Offers members access to a dispersed network of shared vehicles 24 hours per day, 7 days per week, 365 days per year.

(iv) Allows a vehicle to be rented on a per minute, per hour, per day, or per trip basis, and at per mile or per kilometer rates, which typically include fuel, insurance and maintenance.

Section 43. The act is amended by adding an article to read:

**ARTICLE XXIV  
FIREWORKS**

Section 2401. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"APA 87-1." The American Pyrotechnics Association Standard 87-1: Standard for Construction and Approval for Transportation of Fireworks, Novelties, and Theatrical Pyrotechnics, 2001 edition, or any subsequent edition.

"Consumer fireworks."

(1) Any combustible or explosive composition or any substance or combination of substances which is intended to produce visible or audible effects by combustion, is suitable for use by the public, complies with the construction, performance, composition and labeling requirements promulgated by the Consumer Products Safety Commission in 16 CFR (relating to commercial practices) or any successor regulation and complies with the provisions for "consumer fireworks" as defined in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted throughout this Commonwealth.

(2) The term does not include devices as "ground and hand-held sparkling devices," "novelties" or "toy caps" in APA 87-1 or any successor standard, the sale, possession and use of which shall be permitted at all times throughout this Commonwealth.

"Display fireworks." Large fireworks to be used solely by professional pyrotechnicians and designed primarily to produce visible or audible effects by combustion, deflagration or detonation. The term includes, but is not limited to:

(1) salutes that contain more than two grains or 130 milligrams of explosive materials;

(2) aerial shells containing more than 60 grams of pyrotechnic compositions; and

(3) other display pieces that exceed the limits of explosive materials for classification as consumer fireworks

and are classified as fireworks UN0333, UN0334 or UN0335 under 49 CFR 172.101 (relating to purpose and use of hazardous materials table).

"Municipality." A city, borough, incorporated town or township.

"NFPA 1124." The National Fire Protection Association Standard 1124, Code for the Manufacture, Transportation, and Storage of Fireworks and Pyrotechnic Articles, 2006 edition, or any subsequent edition.

"Occupied structure." A structure, vehicle or place adapted for overnight accommodation of persons or for conducting business whether or not a person is actually present.

"Outdoor storage unit." A consumer fireworks building, trailer, semitrailer, metal shipping container or magazine meeting the specifications of NFPA 1124.

"Temporary structure." A structure, other than a permanent facility with fixed utility connections, which is in use or in place for a period of 20 consecutive calendar days or less and is dedicated to the storage and sale of consumer fireworks and related items. The term includes temporary retail sales stands, tents, canopies and membrane structures meeting the specifications of NFPA 1124. The term shall not include a facility that is not licensed to sell consumer fireworks under this article.

Section 2402. Permits.

(a) Permissible purposes.--Display fireworks may be possessed and used by a person holding a permit from a municipality at the display covered by the permit or when used as authorized by a permit for any of the following:

(1) For agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.

(2) By railroads or other transportation agencies for signal purposes or illumination.

(3) In quarrying or for blasting or other industrial use.

(4) In the sale or use of blank cartridges for a show or theater.

(5) For signal or ceremonial purposes in athletics or sports.

(6) By military organizations or organizations composed of veterans of the armed forces of the United States.

(b) Age limitation.--A display fireworks permit may not be issued to a person under 21 years of age.

(c) Bond.--The governing body of the municipality shall require a bond deemed adequate by it from the permittee in a sum not less than \$50,000 conditioned for the payment of all damages which may be caused to a person or property by reason of the display and arising from an act of the permittee or an agent, an employee or a subcontractor of the permittee.

Section 2403. Request for extension.

(a) Authorization.--If, because of unfavorable weather, the display for which a permit has been granted does not occur at the time authorized by the permit, the person to whom the permit was issued may within 24 hours apply for a request for extension to the municipality which granted the permit.

(b) Contents of request.--The request for extension shall state under oath that the display was not made, provide the reason that the display was not made and request a continuance of the permit for a date designated within the request, which shall be not later than one week after the date originally designated in the permit.

(c) Determination.--Upon receiving the request for extension, the municipality, if it believes that the facts stated within the request are true, shall extend the provisions of the permit to the date designated within the request, which shall be not later than one week after the date originally designated in the permit.

(d) Conditions.--The extension of time shall be granted without the payment of an additional fee and without requiring a bond other than the bond given for the original permit, the provisions of which shall extend to and cover all damages which may be caused by reason of the display occurring at the extended date and in the same manner and to the same extent as if the display had occurred at the date originally designated in the permit.

#### Section 2404. Use of consumer fireworks.

(a) Conditions.--A person who is at least 18 years of age and meets the requirements of this article may purchase, possess and use consumer fireworks.

(b) Prohibitions.--A person may not intentionally ignite or discharge:

(1) Consumer fireworks on public or private property without the express permission of the owner.

(2) Consumer fireworks or sparkling devices within, or throw consumer fireworks or sparkling devices from, a motor vehicle or building.

(3) Consumer fireworks or sparkling devices into or at a motor vehicle or building or at another person.

(4) Consumer fireworks or sparkling devices while the person is under the influence of alcohol, a controlled substance or another drug.

(5) Consumer fireworks within 150 feet of an occupied structure.

#### Section 2404.1. Use of display fireworks.

No display fireworks shall be ignited within 300 feet of a facility that meets the requirements of section 2407 or 2410.

#### Section 2405. Agricultural purposes.

(a) Authorization.--The governing body of a municipality may, under reasonable rules and regulations adopted by it, grant permits for the use of suitable fireworks for agricultural purposes in connection with the raising of crops and the protection of crops from bird and animal damage.

(b) Duration of permit.--A permit under this section shall remain in effect for the calendar year in which it was issued.

(c) Conditions.--After a permit under this section has been granted, sales, possession and use of fireworks of the type and for the purpose mentioned in the permit shall be lawful for that purpose only.

#### Section 2406. Rules and regulations by municipality.

(a) Authorization.--Permission shall be given by the governing body of a municipality under reasonable rules and regulations for displays of display fireworks to be held within the municipality.

(b) Conditions.--

(1) Each display shall be:

(i) handled by a competent operator; and

(ii) of a character and so located, discharged or fired as, in the opinion of the chief of the fire department or other appropriate officer as may be designated by the governing body of the municipality, after proper inspection, to not be hazardous to property or endanger any person.

(2) After permission is granted under this section, possession and use of display fireworks for display shall be lawful for that purpose only.

(3) A permit shall be transferable.

Section 2407. Sales locations.

Except as provided in section 2410, consumer fireworks shall be sold only from facilities which are licensed by the Department of Agriculture and that meet the following criteria:

(1) The facility shall comply with the provisions of the act of November 10, 1999 (P.L.491, No.45), known as the Pennsylvania Construction Code Act.

(2) The facility shall be a stand-alone, permanent structure.

(3) Storage areas shall be separated from wholesale or retail sales areas to which a purchaser may be admitted by appropriately rated fire separation.

(4) The facility shall be located no closer than 250 feet from a facility selling or dispensing gasoline, propane or other flammable products.

(5) The facility shall be located at least 1,500 feet from another facility licensed to sell consumer fireworks.

(6) The facility shall have a monitored burglar and fire alarm system.

(7) Quarterly fire drills and preplanning meetings shall be conducted as required by the primary fire department.

Section 2408. Fees, granting of licenses and inspections.

(a) Initial application fees.--

(1) An initial application for a license to sell consumer fireworks shall be submitted to the Department of Agriculture on forms prescribed and provided by the department with a nonrefundable application fee as follows:

(i) For a facility meeting the requirements of section 2407, the application shall be submitted with a nonrefundable application fee of \$2,500.

(ii) For a facility meeting the requirements of section 2410, the application shall be submitted with a nonrefundable application fee of \$1,000 no later than 60 days prior to the first day of sale.

(2) An application under paragraph (1) shall also be accompanied by the appropriate annual license fee as provided in subsection (b).

(b) Annual license fees.--The annual license fee for a facility licensed to sell consumer fireworks shall be as follows:

(1) \$7,500 for a location up to 10,000 square feet;

(2) \$10,000 for a location greater than 10,000 and up to 15,000 square feet;

(3) \$20,000 for a location greater than 15,000 square feet; and

(4) \$3,000 for a temporary structure.

(c) Time limitations and inspections.--

(1) A facility meeting the requirements of section 2407 shall be inspected by the Department of Agriculture within 30 days of receipt of a complete application for a license. The Department of Agriculture shall issue or deny a license within 14 days of completing the inspection.

(2) The Department of Agriculture shall issue or deny a license for a facility meeting the requirements of section 2410 no later than 10 days prior to the first day of sale. The facility shall be available for inspection by the Department of Agriculture for compliance with NFPA 1124 at all times during the licensed selling period.

(d) Term of license.--A license issued for the sale of consumer fireworks shall be effective for one year from the date the license is issued.

(e) License renewal and inspections.--License renewal shall be automatic upon payment of the appropriate annual license fee under subsection (b), but each facility shall be subject to annual inspections by the Department of Agriculture and at other times as the department may deem appropriate.

(f) Condition.--No license may be issued to a convicted felon or to an entity in which a convicted felon owns a percentage of the equity interest.

Section 2409. Conditions for facilities.

A facility licensed by the Department of Agriculture shall be exclusively dedicated to the storage and sale of consumer fireworks and related items, and the facility shall operate in accordance with the following rules:

(1) There shall be security personnel on the premises for the seven days preceding and including July 4 and for the three days preceding and including January 2.

(2) No smoking shall be permitted in the facility.

(3) No cigarettes or tobacco products, matches, lighters or any other flame-producing devices shall be permitted to be taken into the facility.

(4) No minors shall be permitted in the facility unless accompanied by an adult, and each minor shall stay with the adult in the facility.

(5) All facilities shall carry at least \$2,000,000 in public and product liability insurance.

(6) A licensee shall provide its employees with documented training in the area of operational safety of a facility. The licensee shall provide to the Department of Agriculture written documentation that each employee has received the training.

(7) No display fireworks shall be stored or located at a facility.

(8) No person who appears to be under the influence of intoxicating liquor or drugs shall be admitted to the facility, and no liquor, beer or wine shall be permitted in the facility.

(9) Emergency evacuation plans shall be conspicuously posted in appropriate locations within the facility.

Section 2410. Temporary structures.

(a) Conditions.--Notwithstanding section 2407 or any other provision of law, a temporary structure may be licensed by the Department of Agriculture to sell consumer fireworks if the temporary structure meets all of the following requirements:

(1) The temporary structure is located no closer than 250 feet from a facility storing, selling or dispensing gasoline, propane or other flammable products.

(2) An evacuation plan is posted in a conspicuous location for a temporary structure in accordance with NFPA 1124.

(3) The outdoor storage unit, if any, is separated from the wholesale or retail sales area to which a purchaser may be admitted by appropriately rated fire separation.

(4) The temporary structure complies with NFPA 1124 as it relates to retail sales of consumer fireworks in temporary structures.

(5) The temporary structure is located one of the following distances from a permanent facility licensed to sell consumer fireworks under the former act of May 15, 1939

(P.L.134, No.65), referred to as the Fireworks Law, at the time of the effective date of this article:

- (i) Prior to January 1, 2023, at least five miles.
- (ii) Beginning January 1, 2023, at least two miles.

(6) The temporary structure does not exceed 2,500 square feet.

(7) The temporary structure is secured at all times during which consumer fireworks are displayed within the structure.

(8) The temporary structure has a minimum of \$2,000,000 in public and product liability insurance.

(9) The sales period is limited to June 15 through July 8 and December 21 through January 2 of each year.

(10) Consumer fireworks not on display for retail sale are stored in an outdoor storage unit.

(b) Limitations.--The sale of consumer fireworks from the temporary structure is limited to the following:

- (1) Helicopter, Aerial Spinner (APA 87-1, 3.1.2.3).
- (2) Roman Candle (APA 87-1, 3.1.2.4).
- (3) Mine and shell devices not exceeding 500 grams.

Section 2411. Attorney General.

(a) Registration.--Any business entity which performs, provides or supervises fireworks displays or exhibitions for profit shall register annually with the Attorney General.

(b) Rules.--The Attorney General shall promulgate rules to implement this section.

Section 2412. Consumer fireworks tax.

(a) Imposition.--In addition to any other tax imposed by law, a tax is imposed on each separate sale at retail of consumer fireworks, which tax shall be collected by the retailer from the purchaser at the time of sale and shall be paid over to the Commonwealth as provided in this section. A tax imposed under this subsection on each separate sale at retail shall be paid to and received by the Department of Revenue and, along with interest and penalties, shall be deposited into the General Fund.

(b) Rate.--The tax authorized under subsection (a) shall be imposed and collected at the rate of 12% of the purchase price per item sold. The purchase price shall include State and local sales taxes.

(c) Collection and administration.--The provisions of Part VI of Article II shall apply to the tax authorized under subsection (a). No additional fee shall be charged for a license or license renewal other than the license or annual license fee required under section 2408 and the license or renewal fee authorized and imposed under Article II.

Section 2413. Disposition of certain funds.

(a) Transfer.--One-sixth of the tax collected under this article in a fiscal year, not to exceed \$2,000,000, shall be transferred annually for use as follows:

(1) Seventy-five percent of the amount transferred under this subsection shall be used for the purpose of making grants under 35 Pa.C.S. Ch. 78 Subch. C (relating to Emergency Medical Services Grant Program).

(2) Twenty-five percent of the amount transferred under this subsection shall be deposited into a special account in the State Treasury designated as the Online Training Educator and Training Reimbursement Account for the purposes of developing, delivering and sustaining training programs for volunteer firefighters in this Commonwealth.

(3) The Office of the State Fire Commissioner shall establish guidelines for use of the money deposited under

paragraph (2). By December 31, 2018, and each December 31 thereafter, the Office of the State Fire Commissioner shall provide a written report detailing the use of the money received from the prior fiscal year to the chairperson and minority chairperson of the Agriculture and Rural Affairs Committee of the Senate, the chairperson and minority chairperson of the Veterans Affairs and Emergency Preparedness Committee of the Senate, the chairperson and minority chairperson of the Agriculture and Rural Affairs Committee of the House of Representatives and the Veterans Affairs and Emergency Preparedness Committee of the House of Representatives.

(b) Payments.--The transfer required under subsection (a) shall be made by September 15, 2018, and each September 15 thereafter.

#### Section 2414. Penalties.

The following shall apply:

(1) A person using consumer fireworks in violation of the provisions of this article commits a summary offense and, upon conviction, shall be punished by a fine of not more than \$100.

(2) A person selling consumer fireworks in violation of the provisions of this act commits a misdemeanor of the second degree.

(3) A person selling display fireworks in violation of the provisions of this act commits a felony of the third degree.

(4) A person selling federally illegal explosives such as devices as described in 49 CFR 173.54 (relating to forbidden explosives) or those devices that have not been tested, approved and labeled by the United States Department of Transportation, including, but not limited to, those devices commonly referred to as M-80, M-100, blockbuster, cherry bomb or quarter or half stick explosive devices, in violation of the provisions of this act commits a felony of the third degree.

#### Section 2415. Removal, storage and destruction.

The Pennsylvania State Police, a sheriff or police officer shall take, remove or cause to be removed at the expense of the owner all stocks of consumer fireworks or display fireworks or combustibles offered or exposed for sale, stored or held in violation of this article. The owner shall also be responsible for the storage and, if deemed necessary, the destruction of these fireworks.

#### Section 2416. Transition.

A person who, on the effective date of this section, holds a license under the former act of May 15, 1939 (P.L.134, No.65), referred to as the Fireworks Law, may continue the activity permitted by the license for a period of 90 days following the effective date of this section or the date the license expires by the terms of the license, whichever is sooner. After the expiration of the 90-day period or the license, whichever is sooner, the person must obtain the license required under this article to continue the permitted activity, if applicable.

Section 44. Sections 2702(a) and (a.1)(2) and 2704(a) and (b) of the act are amended to read:

Section 2702. Petition for reassessment.

(a) General rule.--A taxpayer may file a petition for reassessment with the department within [90] 60 days after the mailing date of the notice of assessment.

(a.1) Petition for review of tax adjustment not resulting in an increase in liability.--

\* \* \*

(2) A taxpayer must file a petition for review under this subsection within [90] **60** days of the mailing date of the department's notice of adjustment. A taxpayer's failure to file a petition under this subsection shall not prejudice the taxpayer's right to file a petition in a subsequent tax year.

\* \* \*

Section 2704. Review by board.

(a) Petition for review of a decision and order.--Within [90] **60** days after the mailing date of the department's notice of decision and order on a petition filed with it, a taxpayer may petition the board to review the decision and order of the department.

(b) Petition for review of denial by department's failure to act.--A petition for review may be filed with the board within [90] **60** days after the mailing date of the department's notice to the petitioner of its failure to dispose of the petition within the time periods prescribed by section 2703(d) or (e).

\* \* \*

Section 45. (Reserved).

Section 45.1. The act is amended by adding an article to read:

**ARTICLE XXVIII  
TOBACCO MASTER SETTLEMENT PAYMENT REVENUE  
BONDS AND SALE OF REVENUE**

Section 2801. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Account." The Tobacco Revenue Bond Debt Service Account established in section 2805.

"Annual payment." A payment received by the Commonwealth under section IX(c) (1) of the Master Settlement Agreement.

"Authority." The Commonwealth Financing Authority established under 64 Pa.C.S. Ch. 15 (relating to Commonwealth Financing Authority).

"Executive director." The executive director of the Commonwealth Financing Authority.

"Finance." The issuance of revenue bonds utilizing a portion of annual payments due to the Commonwealth under the Master Settlement Agreement.

"Fund." The Tobacco Settlement Fund.

"Master Settlement Agreement." The settlement agreement and related documents entered into on November 23, 1998, by the Commonwealth and leading United States tobacco product manufacturers approved by the Court of Common Pleas, Philadelphia County, on January 13, 1999.

"Office." The Governor's Office of the Budget.

"Sales agreement." A written contract entered into under section 2803.1 under which a portion of the revenue the Commonwealth will receive under the Master Settlement Agreement is sold.

"Secretary." The Secretary of the Budget of the Commonwealth.

"Tobacco Settlement Act." The act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.

Section 2802. Bond issuance or sales agreement.

(a) Declaration of policy.--The General Assembly finds and declares that:

(1) The Commonwealth experienced a revenue deficit of \$1,106,700,308 in General Fund revenue collections for fiscal year 2016-2017.

(2) The Commonwealth's General Fund continues to experience a structural deficit where annual expenditures exceed recurring revenue collections.

(3) The General Fund for fiscal year 2016-2017 revenue shortfall in combination with the structural deficit, increased expenditure needs and increased tax refunds resulted in a significant negative ending balance in the General Fund of approximately \$1,539,000,000 for fiscal year 2016-2017.

(4) A significant portion of the Commonwealth's General Fund annual expenditures are dedicated to the protection of the health, safety and general welfare of the people of this Commonwealth and the furtherance of economic development and efficiency within this Commonwealth by providing basic services and facilities.

(5) The ability of the Commonwealth to provide for the protection of the health, safety and general welfare of the people of this Commonwealth and the provision of basic services and facilities is jeopardized by the General Fund for fiscal year 2016-2017 revenue deficit and the continuing structural deficit.

(6) The provisions of 64 Pa.C.S. Ch. 15 (relating to Commonwealth Financing Authority) are entitled to liberal construction in order to effect legislative and public purposes.

(7) One of the stated purposes of 64 Pa.C.S. Ch. 15 is "to protect the health, safety and general welfare of the people of this Commonwealth and to further encourage economic development and efficiency within this Commonwealth by providing basic services and facilities, it is necessary to provide additional or alternate means of financing infrastructure facilities, transportation systems, industrial parks, energy conversion facilities, facilities for the furnishing of energy, water and telecommunications, facilities for the collection or treatment of wastewater and storm water, tourism, parking facilities, health care facilities and other basic service and related facilities which are conducive to economic activity within this Commonwealth" under 64 Pa.C.S. § 1503(6) (relating to findings and declaration of policy).

(8) The fund is a special revenue fund established for the purpose of providing funding for various Commonwealth programs.

(9) Utilizing a portion of annual payments received through the Master Settlement Agreement and deposited in the fund to leverage funding to offset the effect of the fiscal year 2016-2017 revenue deficit and the structural deficit is in the best interest of the Commonwealth to provide General Fund budgetary relief necessary for the protection of the health, safety and general welfare of the people of this Commonwealth and the provision of basic services and facilities.

(b) Authority.--Notwithstanding any other law, the authority is authorized to enter into a sales agreement on behalf of the Commonwealth or to issue bonds, the proceeds of either of which shall be deposited in the General Fund to provide General Fund budgetary relief necessary for the protection of the health, safety and general welfare of the people of this Commonwealth and the furtherance of economic development and efficiency

within this Commonwealth by providing basic services and facilities.

(c) Duty.--The authority shall issue bonds under section 2803 or enter into a sales agreement under section 2803.1. An issuance or sale under this article shall be undertaken in a manner consistent with the best interest of the Commonwealth and in a way that provides the greatest value to taxpayers and furthers the purposes of this article.

(d) Procedures for sale.--A sale under this article shall be in accordance with the following:

(1) No later than 45 days after the effective date of this section, the executive director shall accept statements of qualifications and expressions of interest from persons in relation to a sale under this article. The executive director may specify a uniform format for statements of qualifications and required information. Persons may amend these statements at any time by filing a new statement.

(2) The executive director or a designee of the executive director may conduct discussions with any responsible offeror to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(3) The State Employees' Retirement System and the Public School Employees' Retirement System may each submit to the executive director a statement of qualification and expression of interest under paragraph (1).

(4) An award to enter into a sales agreement under this article shall be made to the responsible offeror determined in writing by the authority to be best qualified based on the evaluation factors set forth in the request for proposals. The provisions of 64 Pa.C.S. § 1512(d)(1) (relating to board) shall apply to a decision to award under this paragraph. If terms cannot be agreed upon with the best-qualified, responsible offeror, negotiations will be formally terminated with the offeror. If proposals were submitted by one or more other responsible offerors, negotiations may be conducted with the other responsible offeror or responsible offerors in the order of their respective qualification ranking. The sales agreement may be entered into with the responsible offeror then ranked as best qualified if the amount of compensation is determined to be fair and reasonable.

(e) Debt or liability.--

(1) Bonds issued or a sales agreement entered into under this article shall not be a debt or liability of the Commonwealth and shall not create or constitute an indebtedness, liability or obligation of the Commonwealth.

(2) Bond obligations or obligations under a sales agreement shall be payable solely from revenues or funds pledged or available for repayment or payment as authorized under this article.

(3) Each bond must contain on its face a statement that:

(i) The authority is obligated to pay the principal of or interest on the bonds only from the revenues or funds pledged or available for repayment as authorized under this article.

(ii) The Commonwealth shall not be obligated to pay the principal of or interest on the bonds.

(iii) The full faith and credit of the Commonwealth is not pledged to the payment of the principal of or the interest on the bonds.

(4) Each sales agreement under this article must contain a statement that:

(i) The authority is obligated to pay the portion of the revenue the Commonwealth will receive under the Master Settlement Agreement only from the revenues or funds identified or available for payment as authorized under this article.

(ii) The Commonwealth shall not be obligated to pay any amount provided in the sales agreement.

(iii) The full faith and credit of the Commonwealth is not pledged to the payment of any amount provided in the sales agreement.

Section 2803. Limitations on bond issuance.

(a) Maximum principal amount.--If the authority issues bonds under this article, the authority may issue bonds in a maximum aggregate principal amount sufficient to raise net proceeds of \$1,500,000,000.

(b) Limitation.--The authority shall not issue any bonds under this article, except refunding bonds, after June 30, 2018. The authority, in consultation with the office, shall determine the principal amounts of taxable bonds and tax-exempt bonds to be issued during fiscal year 2017-2018.

(c) Refunding bonds.--Notwithstanding any other limitation, the authority, at the request of the secretary, may issue refunding bonds at any time while bonds issued under this article are outstanding, provided that the final maturity of a series of bonds being refunded shall not be extended.

(d) Interest.--Interest on bonds issued under this article and refunding bonds authorized under this section shall be payable at the time or times the authority determines in the resolution authorizing the bonds and, except as provided under subsection (e), shall otherwise be subject to the other provisions of 64 Pa.C.S. Ch. 15 (relating to Commonwealth Financing Authority). Interest may be capitalized for a period not to exceed two years.

(e) Debt limitations.--The aggregate principal amount of bonds specified in this section shall not be subject to the debt limitations specified in 64 Pa.C.S. § 1543 (relating to indebtedness).

(f) Term of bonds.--The term of the bonds issued under this article may not exceed 30 years.

Section 2803.1. Limitations on sales agreement.

(a) Maximum amount.--If the authority enters into a sales agreement under this article, the authority may enter into a sales agreement to sell a portion of the revenue the Commonwealth will receive under the Master Settlement Agreement in a maximum aggregate amount sufficient to raise net proceeds of \$1,500,000,000 during the 2017-2018 fiscal year.

(b) Limitation.--The authority shall not enter into an agreement under this article after June 30, 2018.

(c) Terms of agreement.--The sales agreement may not provide for a sale of revenue in excess of 10 years' worth of payments received by the Commonwealth under the Master Settlement Agreement. No payments from the Master Settlement Agreement may be required under the sales agreement before July 1, 2018.

Section 2804. Finance pledge.

(a) Annual payments for bond issuance.--

(1) For a bond issuance under this article, annual payments received under the Master Settlement Agreement are pledged by the Commonwealth in the amount certified by the secretary under paragraph (2) for payment of principal and

interest for bonds issued by the authority under this article.

(2) The secretary shall certify the amount of annual payments to be pledged for payment of principal and interest for the bonds issued by the authority under this article within 30 days of the closing date of the bond transaction. The certification shall be published as a notice in the Pennsylvania Bulletin.

(b) Annual payments for sales agreement.--

(1) Annual payments received under the Master Settlement Agreement are pledged by the Commonwealth in the amount provided in the sales agreement entered into by the authority under this article.

(2) The secretary shall certify the amount of annual payments under the Master Settlement Agreement to be pledged for payment under the sales agreement entered into by the authority under this article within 30 days of the effective date of the sales agreement. The certification shall be published as a notice in the Pennsylvania Bulletin.

(c) General revenues.--

(1) For a bond issuance, the Commonwealth may pledge revenues collected by the Commonwealth under Article II for the payment of principal and interest for the bonds issued by the authority under this article. A pledge made under this subsection shall be subordinate to the pledge of Article II revenues made before the effective date of this section for outstanding indebtedness of the authority.

(2) The secretary shall certify the maximum annual amount of general revenues to be pledged to supplement amounts pledged under subsection (a) for payment of principal and interest for bonds issued by the authority under this article within 30 days of the closing date of the bond transaction. The certification shall be published as a notice in the Pennsylvania Bulletin.

#### Section 2805. Tobacco Revenue Bond Debt Service Account.

(a) Establishment.--There is established in the State Treasury a restricted account in the General Fund to be known as the Tobacco Revenue Bond Debt Service Account.

(b) Annual payments.--The amount of each annual payment received under the Master Settlement Agreement and pledged by the Commonwealth under section 2804 and certified by the secretary for the payment of principal and interest for bonds issued under this article shall be deposited in the account upon receipt of each annual payment.

(c) General revenue.--General revenues pledged by the Commonwealth in section 2804 and certified by the secretary for the payment of principal and interest for bonds issued under this article shall be deposited in the accounts in amounts determined by the secretary.

(d) Payments on bonds.--Payments of principal and interest due on the bonds shall be made from the account.

#### Section 2806. Service agreement for bond issuance authorized.

(a) Authorization.--For a bond issuance under this article, the authority and the office may enter into an agreement or service agreement to effectuate the purposes of this article, including an agreement to secure bonds issued under this article, under which the secretary shall agree to pay service charges to the authority in each fiscal year that the bonds or refunding bonds are outstanding in amounts sufficient to timely pay in full the debt service and any other financing costs due on the bonds issued under this article.

(b) Payment of service charges.--The office's payment of any service charges shall be subject to and dependent upon approval by the authority and the appropriation of funds by the General Assembly to the office for payment of any service charges.

(c) Amendment of agreement.--The service agreement may be amended or supplemented by the authority and the office in connection with the issuance of a series of bonds or refunding bonds authorized in this section.

Section 2806.1. Service agreement for sales agreement authorized.

(a) Authorization.--For a sales agreement under this article, the authority and the office may enter into an agreement or service agreement to effectuate the purposes of this article, including a direction to the secretary to pay all or a specified portion of the tobacco settlement revenues directly to a person who has entered into a sales agreement under this article.

(b) Payment of service charges.--The office's payment of any service charges shall be subject to and dependent upon approval by the authority and the appropriation of funds by the General Assembly to the office for payment of any service charges.

(c) Amendment of agreement.--The service agreement may be amended or supplemented by the authority and the office in connection with a sales agreement under this article.

Section 2807. Submission of sales agreement.

A certified copy of a sales agreement entered into under this article shall be submitted to the Governor, State Treasurer, office, President pro tempore of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives and Minority Leader of the House of Representatives promptly upon execution and delivery of the sales agreement.

Section 2808. Deposit of proceeds.

The net proceeds of a sales agreement entered into or bonds issued under this article, other than refunding bonds, exclusive of costs of issuance, reserves and other financing charges, shall be transferred by the authority to the State Treasurer for deposit into the General Fund and shall be available for expenditure as provided in this article in accordance with appropriations by the General Assembly.

Section 2809. Limitation on appropriations.

The amount of annual payments from the Master Settlement Agreement that are pledged and certified by the secretary under section 2804 for the payment of principal and interest for bonds issued under this article or for payments required under a sales agreement under this article shall not be subject to appropriation under section 1713-A.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

Section 46. If all or a part of the net loss deduction under section 401(3)4(c) of the act has been deemed unconstitutional as a result of a decision by the Pennsylvania Supreme Court, the Secretary of Revenue shall submit a notice of the decision for publication in the Pennsylvania Bulletin.

Section 47. This act shall apply as follows:

(1) The following shall apply:

(i) Except as provided in subparagraph (ii), sections 213.2, 213.4 and 213.5 of the act shall apply to transactions that occur after March 31, 2018.

(ii) Sections 213.2, 213.4 and 213.5 of the act, as they relate to tangible personal property described

in section 201(m) (2), shall apply to transactions that occur after March 31, 2019.

(2) The amendment or addition of the following provisions of the act shall apply to petitions for refunds, petitions for reassessments and petitions for redeterminations filed with the department on or after 60 days from the effective date of this section:

(i) Section 2702(a) and (a.1)(2).

(ii) Section 2704(a) and (b).

Section 48. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the addition of Subarticle E of Article XVII-D.

(2) 12 Pa.C.S. Ch. 33 is repealed.

(3) The General Assembly declares that the repeal under paragraph (4) is necessary to effectuate the addition of Article XXIV of the act.

(4) The act of May 15, 1939 (P.L.134, No.65), referred to as the Fireworks Law, is repealed.

Section 49. This act shall take effect as follows:

(1) The following provisions shall take effect in 60 days:

(i) The amendment or addition of sections 312, 316, 316.1, 316.2, 317, 317.1, 317.2, 318, 318.1, 319, 319.1, 320, 320.1, 321.2, the heading of Part VII-A of Article III, 324.1(c), 324.2, 324.4, 324.5, 335(f) and 352(f), (h) and (j) of the act.

(i.1) The addition of section 401(3)4(c.1) of the act.

(ii) The addition of Part IV-A of Article IV of the act.

(ii.1) The addition of Article XVII-A.1 of the act.

(iii) The addition of the definitions of "deteriorated property" and "film production tax credit district" in section 1711-D of the act.

(iv) The addition of section 1712-D(b.1) of the act.

(v) The addition of section 1716.2-D of the act.

(vi) The amendment of the definition of "qualified tax liability" in section 1702-G of the act.

(2) The following provisions shall take effect in 365 days:

(i) (Reserved).

(ii) The addition of section 1904.3-B of the act.

(3) The amendment or addition of section 401(3)4(c)(1)(A)(VI), (VII) and (VIII) and (2)(B)(VII) and (VIII) of the act shall take effect on the date of the publication of the notice under section 46 of this act.

(4) (Reserved).

(5) (i) Except as provided in subparagraph (ii), sections 213.2, 213.4 and 213.5 of the act shall take effect February 1, 2018.

(ii) Sections 213.2, 213.4 and 213.5 of the act, as they relate to tangible personal property described in section 201(m) (2), shall take effect February 1, 2019.

(6) The following provisions shall take effect immediately:

(i) This section.

(ii) The remainder of this act.

